

DELTA COUNTY PLANNING COMMISSION

**Delta County Board of County Commissioner's Room
560 Dodge St., Delta, CO 81416
Wednesday, September 14, 2022 @ 5:30 p.m.**

**Tom Kay, Chair
Tate Locke, Vice-Chair
Carl Holm, Director**

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Instructions for Public Participation via Zoom:

The public can join the meeting remotely by registering in advance of the meeting at:

<https://us02web.zoom.us/join/tZUsd-qprDloG9R-tqe6-Mwj0Dd64-Xbmm4>

After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

5:30 P.M. – CALL TO ORDER

ROLL CALL

DISTRICT 1

Cindy Watson

Steve Schrock

Steve Shea

Michelle Roberts, Associate

DISTRICT 2

Layne Brones

Tate Locke, Vice Chair

Hardy Hutto

Vacant, Associate

DISTRICT 3

Jacob Gray

Tom Kay, Chair

Kate Darlington

David Marek, Associate

A. MEETING MINUTES

1. Regular Planning Commission meeting of:

- a. **August 24, 2022**

RECOMMENDATION: Approve the action minutes as presented.

B. PUBLIC HEARING ITEMS

Public Hearing Items are noticed and open for public comment.

1. **NONE**

C. WORK SESSION

The public can attend and listen to the following Work Session Item, but will not be afforded the opportunity to speak on these items, unless the Commission, through the Chair, opens an item up for comment.

CERTIFICATION OF POSTING

On September 8, 2022 at 9:00 AM, Kim Henderson did post the above AGENDA as public notice of the September 14, 2022 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.

1. Land Use Code Update – Work Session

Continued from August 24, 2022. Previous Staff Report attached.

Work Session to consider redline drafts of various sections/topics of the Delta County Land Use Code.

RECOMMENDATIONS: Staff recommends that the Planning Commission continue Work Sessions on the LUC Update and provide direction to staff on:

- a. Chapter 2; Section 1 “Zoning Districts” (including Tables 2.a and 2.b), Section 3.A “Temporary Uses”, and Section 5.B “Use Specific Standards” (including standards for wireless communications and renewable energy)
- b. Chapter 3 “Lot Dimensions” (including subdivision of lots that do not meet the minimum lot size)
- c. Chapters 12 “Subdivision Regulations”
- d. LUC Update Process/Schedule

D. DEPARTMENT REPORT

E. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

This is time set aside for the Commission to comment, request, or refer a matter that is not on the agenda for future consideration.

ADJOURNMENT

Next Meeting: Special Meeting on Monday September 19, 2022 at 5:30 pm in Delta, CO.

CERTIFICATION OF POSTING

On September 8, 2022 at 9:00 AM, Kim Henderson did post the above AGENDA as public notice of the September 14, 2022 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.



DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY ROUBIDEAU ROOM
320 W. 5th Street., Delta, CO 81416
August 24, 2022

Chair Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Roubideau Room.

ROLL CALL

Planning Commission Members in Attendance:

Tom Kay	Hardy Hutto
Steve Schrock	Tate Locke
Jacob Gray	Layne Brones
Michelle Roberts (Associate)	David Marek (Associate)
Steve Shea	

Absent Members:

Kate Darlington
Cindy Watson

With member(s) absent from District 1, Michelle Roberts is a voting member.
With member(s) absent from District 3, David Marek is a voting member.

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Planner I, Angie Kemp
Delta County Community Development Administrative Assistant, Kim Henderson
Delta County Code Compliance Officer, Everett Neil
Delta County Attorney, John Baier

A. MEETING MINUTES

1. Meeting Minutes
 - a. July 27, 2022
 - b. August 10, 2022

RECOMMENDATION: Approve the action minutes as presented.

Steve Shea moved to approved the meeting minutes as presented. Layne Brones seconded the motion.

Motion carried unanimously

B. PUBLIC HEARING ITEMS

1. PLN21-080/Delta Paving Gravel Pit

Continued from August 10, 2022.

Consider a Conditional Use Permit (CUP) to expand an existing gravel mining operation and allow temporary use of a mobile asphalt mixing facility. The project is located at 8020 State Highway 65, Delta (Parcels: 345510202002, 345503400053, and 345510100028).

RECOMMENDATION: Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

- a. Find that PLN21-080 complies with the Delta County Master Plan and the Land Use Code (LUC) for a Conditional Use Permit (CUP) for a Mineral Extraction/Quarry that includes temporary use of a mobile asphalt mixing facility in the A-20 zone; and
- b. Vacate Resolution No. 99-R-009 (Reception #524802), approving the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located at 8020 State Highway 65, subject to 9 conditions; and
- c. Approve PLN21-080/Delta Paving Gravel Pit CUP to:



- 1.) Operate a sand and gravel mine (pit) at 8020 State Highway 65, Delta on three parcels totaling 170.771 acres: 345510202002 (41.62 Ac, new), 345503400053 (39.13 Ac, existing), and 345510100028 (92.021 Ac, existing); and
- 2.) Operate an asphalt plant at 8020 State Highway 65, Delta (Parcel: 345503400053) subject to 21 conditions.

Chair Kay announced that the public hearing, held on August 10th, was closed so there will be no public testimony accepted unless a Commissioner wishes to ask a specific question directed to an individual in response to comments submitted previously.

Planning Director, Carl Holm presented an overview of the project and summary of staff communications with outside agencies since the hearing on August 10th. Mr. Holm and Planner I, Kate Kelly, answered Commissioner questions.

Mr Ben Langenfeld with Lewicki & Associates, representing the applicant, presented information in rebuttal to public comments.

Mr Langenfeld and Ms Sydney Connor, also with Lewicki & Associates representing the applicant, as well as John Mueller and Jim Doody with Elam Construction answered Commissioner questions.

Following Commissioner deliberation, Tate Locke moved to deny the asphalt portion of the application. Steve Schrock seconded the motion.

Motion carried by a unanimous vote (9-0)

Jacob Gray moved to approve the expansion of the gravel pit, including all of staff's other recommendations. Hardy Hutto seconded the motion.

Tom Kay requested the motion be amended to include the condition that Pits 3 & 4 be mined from the south to the north. The applicant stated they had no objection.

Jacob Gray and Hardy Hutto accepted the amendment as part of their motion.

Motion carried by a unanimous vote (9-0)

Chair Kay called for a five (5) minute break. Jacob Gray left the meeting during this break.

C. WORK SESSION

Work Session to consider redline drafts of various sections/topics of the Delta County Land Use Code.

RECOMMENDATIONS: Staff recommends that the Planning Commission continue Work Sessions on the LUC Update and provide direction to staff on:

- a. Chapter 2; Section 1 "Zoning Districts" (including Tables 2.a and 2.b), Section 3.A "Temporary Uses", and Section 5.B "Use Specific Standards" (including standards for wireless communications and renewable energy)
- b. Chapter 3 "Lot Dimensions" (including subdivision of lots that do not meet the minimum lot size)
- c. Chapter 12 "Subdivision Regulations"

Due to the time, this action was not considered.

D. DEPARTMENT REPORT

Planning Director, Carl Holm informed the Planning Commission of the following:

1. September and October meeting schedule. Given staff schedules along with timing for the Land Use Code, the Planning Commission agreed to meet on 9/14/22 (Special Meeting) and 9/21/22 to review the Land Use Code Update redlines. Director Holm informed the Planning Commission that the goal is to have the Land Use Code Update completed by the end of the Calendar year.



2. On 8/22, the Board held a Work Session on the Land Use Code, which was continued to 8/29 (10:00 am). The Board was provided a complete redline of the whole LUC and will be discussing big picture items (land use matrix, lot variations, temporary/specific use standards, manufactured homes, etc.) concurrent with the Planning Commission.
3. Housing Options Workgroup (HOW) is a three-part series that discusses affordable housing in Delta County. Angie Kemp provided some additional information. Director Holm clarified that this will not impact the LUC Update process. It was requested that staff send out information to the Commissioners.
4. The Board approved the Garnet Mesa Solar project 3-0. On September 6, 2022, the Board of County Commissioners will consider establishing a Moratorium for commercial-scale renewable energy applications until the Land Use Code has been updated or for a 12-month period.
5. An amendment to the Junk/Rubbish Ordinance had first reading before the Board of County Commissioners on August 16th. The amendment would authorize staff to issue citations, and that language will create a foundation for other codes.

E. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

None

ADJOURNMENT

The next meeting will be held on September 14, 2022 at 5:30pm in Delta, CO.

Meeting adjourned at 8:36 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson



STAFF REPORT

Delta County Planning Commission

**Delta County Administrative Building
560 Dodge Street, Delta, CO 81416**

Wednesday, August 24, 2022 @ 5:30 p.m.

Land Use Code Update

**Continued Work Session to consider redline drafts of the Delta
County Land Use Code:**

**Chapter 2, Section 1 “Zoning Districts” (including Tables
2.a and 2.b), Section 3.A “Temporary Uses”, Section 5.B
“Use Specific Standards” (including standards for wireless
communications and renewable energy)**

**Chapter 3 “Lot Dimensions” (including subdivision of lots
that do not meet the minimum lot size)**

Chapter 12 “Subdivision Regulations”

RECOMMENDATION:

Staff recommends that the Planning Commission continue Work Sessions on the LUC Update and provide direction to staff on:

- a. Chapter 2, Section 1 “Zoning Districts” (including Tables 2.a and 2.b)
- b. Chapter 2, Section 3.A “Temporary Uses”
- c. Chapter 2, Section 5.B “Use Specific Standards” (including standards for wireless communications and renewable energy)
- d. Chapters 3 “Lot Dimensions” (including subdivision of lots that do not meet the minimum lot size)
- e. Chapter 12 “Subdivision Regulations”

Report prepared by Carl Holm, Planning Director



SUMMARY:

The following is an overview of MINOR, Clean-Up changes being recommended to add clarity to the process(es) for the public as well as staff:

- Clean up Ordinance references
- Clarify Communal Living to align with other standards (density)
- Relocate subdivision related regulations to Chapter 12
- Clarify exemptions from subdivisions regulations
- Incorporate standards plat notes and signature blocks (from prior subdivision regulations, amended for current conditions)

The following is an overview of MAJOR changes being recommended that could streamline the process, and reduce the staff time on projects:

- Revisions to the Land Use Matrix (Table 2.b) that apply different intensity of uses with the appropriate zoning classification
- Further define temporary use of RVs
- Add standards for a manufactured home park (3+ units); from Resolution 97-R-035
- Further define Events (not just blanket “Special Events”)
- Further define Accessory Business Use of the Home (no employees, incidental use of space in the house)
- Add Cottage Industry (limited use of the residential property for commercial use)
- Add standards for Farmworker Housing (complete “reserved” section), including density
- Add standards for Renewable Energy Facilities
- Incorporate standards for Wireless Communication Facilities (from draft resolution not adopted with LUC)
- Amend Variation to Lot Size, Administrative review if meets criteria.
- Add process for phasing a plat and vacating a plat or right-of-way (from prior subdivision regulations).
- Further define clustered subdivision – Building Envelopes = 1 Ac or 25% of Stewardship Area, whichever is less.

Staff is seeking preliminary direction that will be integrated into a comprehensive update of the Land Use Code. These are the final topics for consideration at a Work Session. Once the Work Sessions are complete, staff will release and notice a redline draft for public review and comment. Public hearings will be scheduled at the Planning Commission and Board of County Commissioners.

DISCUSSION:

On June 8th, the Pc provided direction for Table 2.a including retaining the A-5 designation. This revised table is being provided as reference to Table 2.b that includes edits for the type/level of permit required in each zoning designation.

On July 27th, the PC had some discussion about temporary residences. Chapter 2, Section 3 reflects changes that are intended to take the PC discussion into account. While events have not been a significant issue yet, staff recommend changes to this



section in response to some questions staff has received about events. This section amends the Accessory business use of the home and adds cottage industry as two different uses using language from the former Specific Development regulations.

Chapter 2 also includes use specific standards where there are certain uses that the County wants to identify standards that apply beyond the base stands of the LUC. Standards for mobile homes park have been added to reflect language from a resolution that had been repealed with the LUC, and to reflect the current process. Staff prepared draft language for farmworker housing to complete a section that was generally “reserved”. New standards are included for renewable energy facilities and wireless communications. Staff took standards from the Wireless Communication Resolution and incorporated the pertinent regulations into the LUC (rather than have a separate resolution where about 2/3 reflects procedural steps that are in the LUC).

Chapter 12 has been completely changed. Appeal language was relocated to Chapter 9 and various regulations for subdivisions was moved or added to Chapter 12. Staff is recommended including language for phasing and vacating plats that was in the prior subdivision regulations. In addition, this chapter would include standards plat notes as signature blocks that were included with the prior subdivision regulations, amended to reflect current conditions. This Chapter cleans up terminology following meetings with local surveyors and lays out the process, including what is exempt.

Attached material: list, in order as attached/referenced

- A. Draft redlines of:
 - 1. Chapter 2, Section 1 (including Table 2.a and 2.b)
 - 2. Chapter 2, Section 3.A
 - 3. Chapter 2, Section 5.B
 - 4. Chapters 3
 - 5. Chapter 12

PC Work Session – LUC Update

August 10, 2022

CHAPTER 2

Section 1. Establishment of Zoning Districts

A. Purpose and Establishment of Zoning Districts

1. Purpose.

- a. *Relationship to Master Plan.* This Code ~~is designed to bring Delta County's~~ establishes land use regulations ~~into that are~~ consistency with the ~~2019~~ Delta County Master Plan. ~~The Master Plan identified a need to create a simple, clear, fair, and predictable set of regulations. The Master Plan. This Code is meant also identified a need to~~ provide clarity and ~~assurances~~ fairness for residents and property owners, and more predictability for commercial activities in the County.
- b. *Land Use in General.* This Code is designed to clarify where commercial, industrial, agricultural, and residential uses are most appropriately located around the County.
- c. *Commercial Land Uses.* This Code identifies the range of commercial uses that are anticipated in the County, and further identifies zoning districts in which each type of commercial use is appropriate or may be appropriate if certain conditions are met. Generally, commercial uses are most appropriately located in the RI/RC zoning district and UGA ~~zoning district~~ overlay. However, most of the other zoning districts allow for multiple land uses and sufficient flexibility such that a wide range of commercial land uses may be located almost anywhere where adequate services can be provided, and standards of this Code can be met.

2. **Zoning Districts Established.** In order to carry out the provisions of this Code, the County is divided into the following zoning districts:

Commented [CH1]: Removed specific date so don't have to amend LUC if amend MP.
This section is to identify how LUC relates to MP, not what is in the MP (which could change). The last sentence is revised to state the intent once (reduce repetitiveness).

PC Work Session – LUC Update

August 10, 2022

TABLE 2.a ZONING DISTRICTS		
Abbreviation	Zoning District Name	Purposes
A-35	Agriculture (35-acre)	This zoning district is intended ~~for to reflect lands with significant natural resources, including prime agricultural lands, and rural residential uses~~ <u>The intent is to retain irrigated lands</u> on larger parcels (generally, 35 acres or more). It allows for the broadest range of agricultural and supporting uses.
A-20	Agriculture (20-acre)	This zoning district is intended for <u>small-scale</u> agricultural rural residential uses on parcels of land that are generally 20 acres or more. It allows for a broad range of agricultural and supporting uses <u>as well as large-lot residential uses.</u>
A-5	Agriculture (5-acre)	This zoning district is intended for <u>small-scale agricultural and large-lot</u> residential uses.
<u>RES-2.5</u>	<u>Residential (2.5-acre)</u>	<u>This zoning district is intended for rural residential uses in areas that will not impact irrigated lands and there is an adequate water supply and access available.</u>
<u>RES-1</u>	<u>Residential (1-acre)</u>	<u>This zoning district is intended for residential uses in areas suitable for such density, including potential access to infrastructure and services (e.g., public water, sewer, fire hydrants, etc.).</u>
RI/C	Rural Industrial / Commercial	This zoning district is intended to provide for rural industries that support farming and resource-based industries, or that otherwise benefit from locating outside of municipal boundaries (e.g., minerals processing, oil and gas services, etc.) ~~as well as~~ <u>In addition, the designation can be used</u> for a range of commercial uses in areas <u>near municipalities</u> where there are sufficient services and infrastructure to accommodate them.
UGA	Urban Growth Area <u>Overlay</u>	This zoning ~~district overlay~~ applies to areas near incorporated municipalities ~~and provides a way for where~~ <u>urban services (e.g., public water and sewer) are available, and have been identified as areas of potential growth by the municipality through an Intergovernmental Agreement (IGA) between the County and each City/Town. This overlay</u>

Commented [CH2]: If the intent is to protect prime ag lands and natural resources, then it should be reflected through zoning.

Commented [CH3]: Borders between Ag and Residential, depending largely on water.

Commented [CH4]: Create Residential designations at different densities depending on site conditions. Deleted "suitable for such density" and added criteria that defines what is "suitable" "Suitable" is defined in RES-1 as access to infrastructure and services...

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		<u>highlights areas where</u> the County ~~to will~~ work with the municipalities to achieve <u>ordered</u> urban and suburban growth <u>(e.g., higher residential densities and commercial/service uses)</u> . Areas around municipalities that ~~are intended for new or continuing agricultural uses, or rural commercial/industrial development~~ include <u>active agricultural operations</u> should not be <u>in the zoned</u> UGA overlay.
<u>P/QP</u>	<u>Public/Quasi-Public</u>	This zoning designation reflects <u>public</u> lands (e.g., Forest, BLM, Park), <u>public safety facilities</u> (fire, medical, law), <u>public schools, and utilities</u> (water, wastewater, electricity, etc.)

Commented [CH5]: Per IGA, 1 acre minimum and no urban density in GMA.
Replace UGA zoning with RES-1 because UGA allowed 7500 sf lots, but held to 1 acre if no sewer so LDR is most similar. Could be RI/C depending on City's plans (see 1c above), or AG to create edges.

Commented [CH6]: Added clarification. While State and Federal agencies will do what they want with their land, Subsection C.5 LUC states that all lands are zoned. This designation can also apply to County or City/Town lands (e.g. fairgrounds, wastewater treatment facility, airport, etc.)

PC Work Session – LUC Update

August 10, 2022

CHAPTER 2

Section 2. Land Use by Zoning District

A. Interpretation of Land Use by Zoning District Tables

1. **Generally.** Table 2.b, below, *Land Use by Zoning District* describes which land uses are an Allowed permitted Useas of right without review, Permitted Useas of right after review, Limited Usepermitted if certain conditions are met, or Conditional Usepermitted after public hearing if certain conditions are met, and not allowed in each zoning district.
2. **Legend.** The following symbols are used in the tables in this Section The following identifies symbols reflecting the different levels of review and a general overview of the processes as applicable [See Chapters 7 and 8 for more detail about the processes]:
 1. “A” means “Allowed as of right Use.” These uses must are allowed by-right if they comply with applicable standards of this Code, but do not require review for compliance before they are established. However, they may require A Development Application (ministerial) is required prior to establishment of the use to demonstrate compliance with applicable standards in the Land Use Code (proof of water, setbacks, etc.), other types of permits (e.g., well permits, septic permits, or access permits) and applicable encumbrances (e.g., easements, Plat notes, etc.).
 2. “P” means “allowed Permitted Use, with a Z zoning P permit.” These uses Following Site Plan Review through the Development Application, Permitted Uses require a Z zoning P permit (ministerial) prior to establishment of the use. Zoning permits are Approval of a Site Plan shall be issued by the Director after administrative review for if the application is determined to be in compliance with the general requirements of this Code prior to establishment of the use. See Chapter 9, Section 1, Approvals and Denials. Other types of permits (e.g., well permits, septic permits, or access permits) may also be required.
 3. “L” means “L limited Use, with a Zoning Permit.” Following Site Plan Review through the Development Application, Limited Uses require a Z zoning P permit and sketch or site plan approval. Zoning permits are issued that may be approved, conditionally approved, or denied by the Director aAfter administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code (discretionary). Applications for Limited Uses may be referred to specific referral agencies. If there is an “n” next to the L, then public notice of the application is required pursuant to Chapter 7, Section 4, Public Notice. See Chapter 9, Section 1, Approvals and Denials. Other types of permits (e.g., well permits, septic permits, or access permits) may also be required before the action is taken. The Planning Department monitors compliance with conditions of approval.
 4. “C” means “C conditional Use, subject to a Conditional Use Permit.” Following Site Plan Review through the Development Application, Conditional Uses are subject to

Commented [CH7]: Don't need a separate description for what is provided in the next section.

Commented [CH8]: This section provides a general idea what each symbol means. Process is provided in Chapter 7.

Commented [CH9]: Introducing Dev App Ord requirements here. Allowed uses are still subject to DA-Site Plan Review in order to verify proof of water, access, septic, etc.

PC Work Session – LUC Update

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public hearing review for compliance with specific standards that pertain to the use, the general standards for all Conditional Uses, and the general requirements of this Code (discretionary). Applications for Conditional Use Permits will be referred to referral agencies. Public notices of hearings on the application are required pursuant to Chapter 7, Section 4, Public Notice before an action is taken. Conditional use permits are issued by the Planning Department County after public hearing review and approval by the Board of County Commissioners. The Planning Commission makes recommendations to approve, conditionally approve, or deny an application. The Planning Commission recommendation is forwarded to the Board of County Commissioners for final action. The Planning Department monitors compliance with conditions of approval. See Chapter 9, Section 2, Continuances and Withdrawal. Other types of permits (e.g., well permits, septic permits, or access permits) may also be required.

5. “—” means that the use is not allowed in the specified zoning district.

3. Multiple Uses. In instances where a proposed development will combine more than one listed use, each listed use shall be evaluated independently for compliance with applicable standards.

4. Other Permits. Whether or not land use permits are required by this Code, other types of permits or approvals may be required in order to establish the use (e.g., right-of-way use permit, address, septic permits, and/or well permits, mobile home, electrical, plumbing permits through the State).

B. Land Use by Zoning District

The land uses that are allowed in each zoning district are set out in Table 2.b, Land Use by Zoning District. Section 4 of this Chapter includes Use Specific Standards for certain uses listed below. Chapter 14, Section 2 provides definitions of uses listed below.

TABLE 2.b LAND USE BY ZONING DISTRICT					
Land Use Category / Land Use	Zoning District				
	A35	A20	A5	RI/C	UGAR ES
AGRICULTURE LAND USE CATEGORY					
Agriculture, Agribusiness, Silviculture, Viticulture	A	A	A	A	A
INTENSIVE AGRICULTURE LAND USE CATEGORY¹					
Small Animal Feeding Operation (“SAFO”)	P ⁿ	P ⁿ	<u>—Lⁿ</u>	<u>—Lⁿ</u>	—
Medium Animal Feeding Operation (“MAFO”)	L ⁿ	L ⁿ	<u>—Lⁿ</u>	<u>—Lⁿ</u>	—
Concentrated Aquatic Animal Production (“CAAP”)	L ⁿ	L ⁿ	<u>—Lⁿ</u>	—	—
Large Animal Feeding Operations (“LAFO”)	L ⁿ	<u>—Lⁿ</u>	—	—	—
RURAL RESIDENTIAL LAND USE CATEGORY					
Single Family Detached ²	A	A	A	<u>AP</u>	A

Commented [CH10]: Permit type should reflect compatibility with zoning of site and other zones

Commented [CH11]: Yellow highlight = discussion. Focus Ag in primary Ag zone (A35). LAFO use has lo size restriction that suggests not in A20.

PC Work Session – LUC Update

August 10, 2022

<u>Accessory Dwelling Unit (ADU)</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>=</u>	<u>A</u>
Duplex or Triplex ²	AP	AP	AP	AP	<u>AP</u>
Manufactured Home Park <u>(3+ units, including mobile homes and RVs)^{1,2}</u>	<u>in C</u>	<u>= C</u>	C	—	L
Multifamily (4+ dwelling units) ^{1,2}	<u>= L</u>	<u>= L</u>	L	L	L
Assisted Living, Congregate Care, or Nursing Home	—	—	L	—	L
AGRICULTURAL SUPPORT AND RURAL INDUSTRIES LAND USE CATEGORY					
Farm Supply / Feed and Seed	L	L	L	A	A
<u>Automobile Fueling or Service Station</u>	—	—	—	A	A
<u>Farmworker Housing (1 du/10 Ac)¹</u>	<u>A</u>	<u>A</u>	<u>L</u>	<u>=</u>	<u>=</u>
<u>Farmworker Housing (more than 1 du/10 Ac)¹</u>	<u>L</u>	<u>L</u>	<u>C</u>	<u>=</u>	<u>=</u>
Kennel	A	A	A	A	L
Rural Light Industry with Retail	P	P	P	P	P
Rural Light Industry without Retail	A	A	A	A	A
Rural Medium Industry (e.g., <u>hemp processing</u> , slaughterhouse, meat processing, sawmill)	L ^a	L ^a	C	P	C
Rural Heavy Industry (e.g., explosives, rock crushing, tannery)	C	C	C	P	—
Veterinary Hospital or Clinic	A	A	A	A	A
COMMUNITY LAND USE CATEGORY¹					
Place of Assembly (e.g., churches, grange halls, etc.)	A	A	A	C	A
Schools and Child Care Centers	L	L	P	—	P
Cemetery	P	P	P	P	P
COMMERCIAL LAND USE CATEGORY					
Retail Sales and Services (also includes banks, real estate, etc.)	L	L	<u>= L</u>	P	<u>= P</u>
Office	L	L	L	A	<u>AL</u>
Restaurant	P	P	<u>= P</u>	P	<u>= P</u>
<u>Automobile Fueling or Service Station</u>	<u>=</u>	<u>=</u>	<u>=</u>	A	<u>=</u>
<u>Storage Facility (Indoor/Outdoor)</u>	<u>=</u>	<u>=</u>	<u>L</u>	<u>L</u>	<u>L</u>
<u>Accessory Business Use of the Home³</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Cottage Industry³</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Cottage Industry, impact to neighboring property³</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Sexually-Oriented Business ¹	—	—	—	L	—
RURAL RECREATION AND HOSPITALITY CATEGORY					
Bed and Breakfast	AP	PA	AL	GL	AL
<u>Short-Term Rentals</u>	<u>P</u>	<u>P</u>	<u>L</u>	<u>C</u>	<u>L</u>
Guest Ranch	P	P	P	C	L
Lodging (Inn, Hotel, Motel)	L	L	L	C	L
Resort or Conference Center Hotel	C	L	L	L	L

Commented [CH12]: Permitted Use better reflects Additional Residences - review

Commented [CH13]: Threshold from Mobile Home Park Reso (repealed)

Commented [CH14]: Move to Commercial

Commented [CH15]: Align with Specific Use Standards. Establish threshold for # of units when a permit is required. Below that is Allowed (reflect in Specific Use Standards, Section 7). Still need proof of water, access, etc

Commented [CH16]: # units TBD

Commented [CH17]: Confused with definition parameters. Hemp processing allowed as Ag use if not hazardous materials

Commented [CH18]: Relocated from Ag Support

Commented [CH19]: Clean up to reflect current practices. Reflects multiple interested parties asking about storage. Have been placing under Rural Industry, which distinguishes between indoor and outdoor...and retail.

PC Work Session – LUC Update

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Equestrian Facilities (training, arenas, horse boarding, etc.)	A	A	A	A	A
Outdoor Shooting Range ¹	~~LG~~	~~LG~~	C	C	—
Indoor Shooting Range ¹	~~PL~~	~~PL~~	L	L	L
Racetrack ¹	C	C	C	P	—
Paintball Course	L	L	L	—	—
Hunting, Fishing, or Watersports Club	A	A	~~AP~~	—	P
Campground/ ~~RV Park~~ ¹	L	L	~~LC~~	—	~~LC~~
Parks, Passive Recreation, Open Space, or Golf Course	~~AL~~	~~AL~~	~~AC~~	~~AP~~	~~AC~~
Other Active Outdoor Recreation	L	L	L	P	P
Theater	—	P	P	—	A
Outdoor Theater ¹	C	P	P	—	C
UTILITIES, COMMUNICATIONS, MINING, ENERGY, TRANSPORTATION, AND DISPOSAL CATEGORY					
Water or Wastewater Treatment Plant	P	P	P	P	P
~~Wireless Communications Facility~~	~~See Wireless Communications Facility Resolution~~				
Renewable Energy Facility (~~Personal Scale~~) ¹	~~AL~~	~~AL~~	~~AL~~	~~AL~~	~~AL~~
Renewable Energy Facility (Commercial Scale) ¹	=	C	=	~~C~~	=
Truck Stop / Truck Wash	—	—	—	P	P
Airport, Airstrip, ~~Helicopter~~ -Landing Pad (~~Other~~) ¹	L ⁿ	L ⁿ	L ⁿ	L ⁿ	L ⁿ
Salvage Yard ¹	C	C	=C	C	=C
Minerals Extraction / Quarry ¹	C	C	=C	C	=C
Oil and Gas Extraction & Support Services	(reserved)				
Waste Transfer Station ¹	—	—	—	C	—
Landfill ¹	C	C	C	—	—
Hazardous Waste Landfill ¹	C	—	—	—	—
WIRELESS COMMUNICATIONS FACILITIES¹					
New Facilities, Private Property	C	C	C	C	C
New Facilities, Public Property	L	L	L	L	L
Eligible Existing Facilities	P	P	P	P	P
Building Mounted Facilities	P	P	P	P	P
Small Wireless Facilities	P	P	P	P	P

¹- See Chapter 2, Section 5B; *Use Specific Standards*

²- See Chapter 3, Section 2; *Additional Residences and Communal Living*

³- See Chapter 2, Section 3; *Temporary Uses*

C. Uses ~~that are Not Allowed Restricted by Ordinance~~ in Any Zoning District

The following uses are ~~not allowed in any zoning district specified in their operating ordinance(s)~~ (Ordinances included in the Appendix):

Commented [CH20]: Standards from resolution integrated into Use Specific Standards. Different types of facilities reflected below.

Commented [CH21]: Definition sets threshold at 100 kw Set Use Specific Standards (footprint) based on scale (personal, large, utility)

Commented [CH22]: Do not allow in residential zones, including A5. Do not allow in A35 as the prime lands for Ag and/or open space. A20 is marginal Ag lands. Otherwise, it is a commercial use.

Commented [CH23]: Intensives uses for residential zones, including A5.

Commented [CH24]: If not intent to create regulations and rely on State Statute only - DELETE?

Commented [CH25]: Not all are fully prohibited. For example, Junk/Rubbish has exemption if assessed as Ag. Revised to reflect Ordinance titles and distinguish the two ordinances. Add reference to Ordinances

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1. Commercial Marijuana Uses Cannabis (See Delta County Ordinance 2018-01); and

2. Personal Use Cannabis; and

6.3. Mobile Homes; and

7.4. Outdoor Accumulation of Rubbish (Junk) Storage.

Commented [CH26]: LUC referenced personal use (2018-10), versus commercial use (2013-01)
Recommend omitting specific ordinance number so don't have to amend LUC if ordinance changes.

Commented [CH27]: Ordinance 2006-10
Recommend revising so applies for all mobile homes and limits pre-HUDs

Commented [CH28]: Ordinances 2003-06 and 2007-01
Amended to reflect Ordinance title

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CHAPTER 2

Section 3. Temporary Uses and Accessory Business Use of the Home

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to establish standards for certain temporary uses and business uses of the home.

B. ~~Temporary~~ Use of Recreational Vehicle, or other similar structure as Dwelling Unit

1. **Construction (Temporary).** A recreational vehicle may be temporarily occupied as a dwelling unit during the period in which a dwelling unit is actively being constructed or installed on a subject property, provided that the occupant of the recreational vehicle is the owner of the property upon which the construction is occurring, or the contractor who is constructing the dwelling unit. ~~Hauling of water for temporary farm worker housing is allowed. Said use of the recreational vehicle shall terminate the earlier of. Said use of the recreational vehicle temporarily during construction shall require valid plumbing and/or plumbing permits as applicable, subject to a timeline to terminate the use such as:~~

- a. 90 days ~~after it is commenced where a manufactured/modular unit is installed;~~ or
- b. When ~~construction of~~ the dwelling unit is substantially complete and ~~habitable.~~

2. **Farm Labor (Seasonal).** ~~Use of recreational vehicles as seasonal farm labor housing shall be subject to requirements for an Allowed Use, including compliance with the timeline established in Section 2.D.2.a.2 above.~~

3. **Residence (Principal).** ~~A recreational vehicle, or other similar s~~ Structures not otherwise intended for permanent living, ~~such as a recreational vehicle,~~ may be ~~considered used as~~ single-family detached residences (~~principal use~~) when connected to ~~permitted,~~ permanent, reliable infrastructure, including power, water, and either sewer or a permitted individual sewage disposal system.

- ~~2.4. Manufactured Home Park. Where any parcel of land includes three or more (3+) sites for mobile homes or recreational vehicles owned or leased as a residence on a parcel of land (other than the property owner), that parcel becomes a manufactured home park and is subject to the applicable regulations in Chapter 2, Section 4(B)(2) of this Code.~~

C. Farm Stands

Farm stands are ~~an~~ Allowed Use, provided ~~that:~~

1. ~~T~~they do not take direct access from a state highway or arterial road unless CDOT or ~~the Department of County~~ Roads and Bridges confirms that such access may be safely provided; and
- ~~1.2. provided that t~~he subject property is cleaned up and restored after the stand is removed.

Commented [CH29]: Address hauled water with cisterns. Chapter 5, Section 3)

Commented [CH30]: 90 days is not enough for constructing a home, but is enough for setting a modular home

Commented [31]: State (DOLA) monitors is 5+ units

Commented [32]: Align with standards from Reso 97-R-035 (pre-LUC).

Commented [CH33]: Reformatted for easier reading

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D. Fireworks Stands

Fireworks stands are an Allowed Use provided that:

1. They do not take direct access from a state highway or arterial road unless the Department of Roads and Bridges confirms that such access may be safely provided;
2. A fire prevention and emergency response plan is provided and approved by the applicable fire protection district;
3. Fire restrictions are not in effect during the period that the fireworks stand is present; and
4. The subject property is cleaned up and restored after the stand is removed.

E. ~~Special~~ Events

1. **Generally.** The standards of this section apply to temporary ~~special~~ events that ~~are likely to attract more than 500 people at any one time to a subject property that is~~ are not already ~~put to permitted to include such use (e.g., a commercial, community, wineries, or hospitality use)~~ that would routinely attract large groups of people. Such events may include outdoor entertainment, cultural, religious, or charitable events, as well as flea markets, farmers' markets, craft shows, and comparable events. More specifically:

a. ~~Special Event~~ applies in cases where there are no more than three (3) events per calendar year that do not exceed more than seven (7) consecutive days.

1) ~~Allowed Use if less than 150 people at any one venue at any one time, but must comply with standards of this section.~~

2) ~~Permitted Use for an event between 151 and 500 people.~~

3) ~~Limited Use if over 500 people.~~

b. ~~Private Event~~ applies where people are invited by the property owner with no obligation or expectation to pay or donate money/services (e.g., family wedding on their property). Allowed Use.

a-c. ~~Public Event~~ applies to any event that does not meet the parameters of a special or private event. Limited Use required in each such case.

2. Approval Standards.

a. ~~Frequency and Duration.~~ No subject property shall host a temporary special event more than 75 days per year (including setup and teardown), and no individual event shall be longer than 30 days.

b.a. ~~Impact on Agriculture or Intensive Agriculture.~~ The location and nature of the special event shall be such that it will not adversely affect adjacent and nearby agriculture and intensive agriculture uses that involve livestock; or create a material risk of trespass onto or damage to agricultural fields, grazing areas, or livestock pens.

Commented [CH34]: 500 is a very large event and 75 days per year is excessive to allow everywhere. Standards are include but without any mechanism to enforce, except after-the-fact with complaints.

Commented [35]: "Special" means not a routine activity. Distinguish from routine activities (e.g., wineries)

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e.b. General Site Requirements. The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.

e.c. Buildings and Structures. ~~If existing buildings and structures are used, they~~ Buildings and structures (including temporary tents) to be used must be in a condition that is safe and appropriate for the intended level of use and occupancy.

e.d. Access and Circulation.

- 1) The street from which access is taken must have adequate capacity to serve the temporary special event. The County may require a Traffic Impact Study to evaluate available capacity. A traffic management plan may be required to ensure safe access and safe operation of adjacent roads.
- 2) Safe on-site vehicular and pedestrian circulation routes shall be identified and unobstructed emergency access shall be provided.

f.e. Parking.

- 1) The parking area available for the temporary special event shall be sufficient to accommodate the peak demands of the event, assuming four attendees per vehicle.
- 2) Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (*e.g.*, buses and vans), or the close association of the event with a permanent use that provides parking for attendees.
- 3) Parking may be provided in remote locations, provided that if parking is provided more than 800 ft. from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.
- 4) Truck parking and loading areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site. Trucks shall be routed away from local residential streets.

g.f. Noise. Noise controls may be required for temporary special events that are expected to generate high levels of noise or to operate after 9:00 p.m.

h.g. Security and Fire Protection. Adequate security and fire protection shall be provided for the proposed temporary special event. The County may require a fire prevention and emergency response plan that is approved by the applicable fire protection district.

h. Sanitation. Adequate restrooms (portable restrooms are acceptable for temporary use) shall be provided to serve the event. Trash containers and recycling bins shall be placed in convenient areas, including principal places of assembly, near food and beverage vendors, near restrooms, and at pedestrian entry and exit points.

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- i. Food and Beverage. Appropriate approvals and/or permits shall be obtained for food services and selling of alcohol.
- j. *Cleanup and Restoration.*
 - 1) The site of the temporary event and the adjoining right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event.
 - 2) If grass parking was utilized, restoration/re-seeding may be required to control dust in impacted areas.
 - 3) The County may require a refundable deposit for site clean-up and restoration.

F. Accessory Business Use of the Home

Accessory business use of the home ~~is allowed as-of-right.~~ (aka Home Business) includes any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit (subordinate to the residential use). In order to qualify as an Allowed Use, a Home Business shall:

- 1. Operate in its entirety within the dwelling unit and only by persons residing in the dwelling. There shall be no storage relative to the Home Business in another structure or outside the dwelling; and
- 2. Utilize access included as part of the dwelling. The use shall not have a separate, independent entrance from outside the building, unless otherwise required by State law or regulation; and
- 3. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than one (1) square foot. The operator shall not display or create any evidence of the Home Business outside of the building; and
- 4. Utilize a maximum of twenty percent (20%) of the gross floor area of the dwelling, or 300 square feet, whichever is less. A garage shall not be utilized for, or in conjunction with, accessory business use of the home;
- 5. Be conducted by the owner or occupant of the dwelling. Home Business shall not employ, for a fee or otherwise, any person in the conduct of the Home Business who does not reside in the dwelling unit; and
- 6. Clearly be incidental and secondary to the use of the dwelling for dwelling purposes and shall not materially change the character of the residential use or of the neighborhood by excessive noise, lights, traffic, or other disturbances.

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G. Cottage Industry

Cottage Industry is a Home Business that utilizes an accessory structure or land associated with the residence, and includes a limited number of employees. In order to qualify as an Allowed Use, a Cottage Industry shall:

1. Utilize a maximum of one accessory structure, and may not exceed 2,000 square feet; and
2. Be limited to a maximum of five (5) employees, including the owner/operator; and
3. Be subordinate to the residential use. The Cottage Industry shall not be the primary use of the property and the business owner must reside in a dwelling on the property; and
4. Limit outdoor storage to an area no larger than 100 square feet and six (6) feet in height. All material stored outside shall be screened from public view (from a public road); and
5. Limit deliveries to/from the property so that it does not cause interference with the normal flow of traffic for surrounding residents; and
6. Clearly be incidental and secondary to the use of the residential use and shall not materially change the character of the residential use or of the neighborhood by excessive noise, odors, dust, lights, traffic, or other disturbances; and
7. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than two (2) square feet. The operator shall not display or create any evidence of the Cottage Industry outside of the building; and

Cottage Industries that create significant impacts to adjacent properties such as fumes, noxious odors, excessive noise, dust, and or traffic shall be subject to a Conditional Use Permit.

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CHAPTER 2

Section 54. Limited Use Approval Specific Standards

The following standards are in addition to other standards set forth in this Code.

A. ~~Use Specific Standards~~ Intensive Agriculture

Intensive Agriculture

1. **Definition:** Intensive Agriculture means a group of land uses that involve the raising, care, or feeding livestock, where the number of animals is equivalent to or greater than 50 animal units, and, the animals are stabled, confined, fed and/or maintained a total of 45 days or more in any 12-month period, and, where crops, vegetation, forage growth, or post-harvest residues are not growing, irrigated and sustained in the normal growing season over any portion of the lot or facility. The phrase “intensive agriculture” also includes concentrated aquatic animal production (“CAAP”). The phrase “intensive agriculture” does not encompass (without more) cattle and sheep that are moved between winter and summer pastures, including those confined for more than 45 days due to adverse conditions, and breeding stock on property where other cattle are grazing.

TABLE 2.c

DEFINITION OF INTENSIVE AGRICULTURE

(SEE CHAPTER 14 SECTION 2 FOR FULL DEFINITION)

Animal feeding operation (AFO) means any building or outdoor corral, pen, or other enclosure used to confine animals for the purpose of feeding or care, where no forage is harvested. The total number of animal units (see Chapter 14, Section 2 for full definition) determines the applicable criteria and standards

Small AFO	Medium AFO	Large AFO
50-149 animal units	150-999 animal units	1000+ animal units

2. **Definition.** Residential Use means any property, whether developed or not, that is zoned A5 or ~~UGA RES~~, and any other property that has a residential tax assessment indicating residential use of the property. For the purposes of measuring setbacks for Intensive Agriculture, the setback should be measured from the property line of the property that meets the Residential Use definition.
3. **Minimum Lot Area.** The minimum lot area for MAFO and LAFO uses is 35 acres. There is no minimum lot area for SAFO or CAAP uses.
4. **Setbacks.** Intensive agriculture uses shall be set back as provided in Table 2.d, Setback Standards for Intensive Agriculture. **Additional setbacks may be required in order to implement the requirements of subsections (e), (f), and (g), below.** If an intensive agriculture application cannot meet the requirements of this subsection, and is processed as a Conditional Use in accordance with Chapter ~~28~~, Section ~~25 (A.3) Conversion to a Conditional Use, above~~, setbacks may be reduced, but only within the limits of subsection

Commented [CH36]: Relocate from Chapter 2, Section 5.B since not all uses included are Limited Uses (come conditional uses). Concept to have all in one place makes sense. Formatting revised as a new Section.

Commented [CH37]: Stated in narrative below (repetitive)

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(k), below.

TABLE 2.d SETBACK STANDARDS FOR INTENSIVE AGRICULTURE				
Standard	Facility Type			
	SAFO	MAFO	CAAP	LAFO
Part A: Setbacks for feedlots, confinement buildings or pens, waste lagoons, and carcass disposal areas				
From Streams and Rivers	200 ft.	200 ft.	200 ft.	200 ft.
From Irrigation Ditches	100 ft.	100 ft.	100 ft.	100 ft.
From Community Water Sources	300 ft.	300 ft.	300 ft.	300 ft.
From Domestic Water Wells	150 ft.	150 ft.	150 ft.	150 ft.
From Residential Uses	Greater of 150 ft. or 1 ft. / AU	1,000 ft.	150 ft.	1,000 ft.
From Public Schools	2,640 ft.	2,640 ft.	2,640 ft.	5,280 ft.
Part B: Setbacks for buildings used for confinement of animals, water or wastewater storage tanks, and accessory buildings or structures that are not covered by Part A, above.				
From all property lines	100 ft.	100 ft.	50 ft.	100 ft.

5. **Odor Management.** An Odor Management Plan is required. Mitigation measures that are set out in the Odor Management Plans shall be conditions of approval of the intensive agriculture use.
 - a. Animal confinement structures, structures or lagoons used to store and/or treat wastewater, solids, or sludges, and areas used to process and dispose of carcasses shall be designed to incorporate ventilation, aeration, treatment, and/or filtration technologies to reduce odors and pathogens.
 - b. Building exhaust vents shall include control equipment to prevent emissions of dust and odors to the greatest extent practicable.
 - c. *Odor Management Plans* for intensive agriculture shall include:
 - 1) A description of and a map that demonstrates the location of each of the operations and processes at the intensive agriculture operation, including the following:
 - a) Animal confinement structures and open animal feeding operations;
 - b) Manure collection, storage, and treatment systems, including anaerobic process wastewater vessels and impoundments and aerobic impoundments;
 - c) Composting storage sites; and
 - d) Land application equipment and sites.

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- 2) *Construction and Design Plans* for odor controls and management practices shall include all necessary and appropriate technology to minimize to the greatest extent practicable off-site odor impacts from all aspects of the intensive agriculture operations, including confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;
 - 3) *Operation Plans* for odor controls and management practices, including plans for the following, if applicable:
 - a) Proper operation and maintenance of the necessary technology or practices to minimize the greatest extent practicable off-site odor impacts;
 - b) Operation of the required equipment in compliance with manufacturer's specifications and recommendations;
 - c) Proper operation and maintenance of covers, technologies and/or practices employed for anaerobic process wastewater vessels and impoundments to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere; and
 - d) Proper operation and maintenance of the necessary technology employed for aerobic impoundments to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable.
 - 4) An animal waste management plan for odor control and management practices necessary to minimize to the greatest extent practicable off-site odor impacts
 - 5) All plans and specifications for odor control equipment and management practices included in the Odor Management Plan must conform to common and accepted professional practices.
 - 6) Testing, sampling, and analysis requirements appropriate for the intensive agriculture use.
6. **Water Quality.** A *Water Quality Management Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Water Quality Management Plan shall be conditions of approval of the intensive agriculture use.
- Note:* All animal feeding operation are subject to Colorado Regulation 81 to protect water quality. Information on Regulation 81 can be found at <https://www.colorado.gov/pacific/cdphe/animal-and-livestock-feeding-operations-general-information>
7. **Dust Management.** A *Dust Control Plan* is required for all intensive agriculture uses.

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Mitigation measures that are set out in the Dust Control Plan shall be conditions of approval of the intensive agriculture use.

- a. The Dust Control Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere.
- b. For those materials, equipment, services or other resources (such as water for abatement and control purposes), which are likely to be scarce at any given time, an alternative control method must be included in the dust control plan.
- c. Where the intensive agriculture use is accessed by an unpaved road or access easement, the County may require that the Dust Control Plan provide for mitigation of dust along the unpaved road or access easement.

8. **Noise Mitigation.** A *Noise Mitigation Plan* is required for all intensive agriculture uses.

Mitigation measures that are set out in the Noise ~~Management~~mitigation Plan shall be conditions of approval of the intensive agriculture use.

- a. Noise that is generated by development shall not exceed the thresholds set out in C.R.S. § 25-12-103, *Maximum Permissible Noise Levels*, except as provided in 25-12-109, *Exception - Sport Shooting Ranges - Legislative Declaration – Definitions*, or any other specific exceptions created by the State of Colorado after the effective date of this Code.
- b. Where design is not sufficient to mitigate noise impacts, the applicant shall submit a Noise Mitigation Plan that includes operational limitations to mitigate the noise impacts. Adherence to the Noise Mitigation Plan shall be a condition of approval.

9. **Pest Management.** A *Pest Management Plan* is required for all intensive agriculture uses.

Mitigation measures that are set out in the Pest Management Plan shall be conditions of approval of the intensive agriculture use. The Pest Management Plan shall address the following:

- a. The types of pests that may be associated with the proposed land use at a level that requires management;
- b. The methods, techniques, barriers, biological agents, or chemical agents that will be used to control the identified pests (the “~~PEST MANAGEMENT PLAN~~PROGRAM”), the anticipated timing of application of chemical or biological agents, and the method of storage of chemical or biological agents; and
- c. The controls that will be used to minimize the impacts of the Pest Management ~~Plan~~program on nearby property, waterbodies (including but not limited to irrigation ditches and reservoirs), livestock operations, and environmentally sensitive lands.

10. **Truck Routing.** A *Truck Routing Plan* is required for all intensive agriculture uses. Routes and hours of operation that are set out in the Truck Routing Plan shall be conditions of

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approval of the intensive agriculture use.

- a. The type or class of vehicles that will be used by the proposed land use;
- b. The anticipated frequency of arrival and departures of trucks;
- c. The hours of truck traffic;
- d. A map illustrating the route(s), from a paved County arterial road or State Highway, of all trucks used by the proposed land use.

11. Limitations on Modifications.

- a. Setbacks for intensive agriculture uses shall only be modified through a Conditional Use review process described in Chapter 82, Section 25, *Limited Use Approval Standards*, in accordance with the following limitations:
 - 1) Setbacks to residential uses may be reduced by up to 50-percent; and
 - 2) Setbacks to property lines may be reduced by up to 25-percent, provided that setbacks to schools are not thereby reduced below minimum requirements.
 - 3) In determining whether setback reductions will be allowed, the Board of County Commissioners shall consider the concentration of intensive agriculture facilities in the vicinity, in order to evaluate the cumulative impacts of such uses on the land uses from which spacing is required.

B. Rural Residential Uses

Rural Residential Uses

1. General Requirements.

- a. *Stewardship Areas.* If Steward Areas are required to be identified based on Chapter 4 *Site Design and Environmental Stewardship*, such Stewardship Areas shall be managed in accordance with Chapters 4 and 12 of this Code. No development of lots, dwelling units, supporting infrastructure, or common areas shall occur in the designated Stewardship Area.
- b. *Density.* The total number of ~~rural residential uses for manufactured home parks and multifamily dwelling units~~ allowed on a parcel shall be limited to one dwelling unit per minimum acreage allowed by the applicable zone district. In addition, one Accessory Dwelling Unit is allowed per parcel. The total number of units allowed in the UGA Overlay shall be restricted only by the ability to connect to municipal services including water and sewer.

2. **Manufactured Home Park.** In addition to all other applicable standards of this Code, and eCompliance with Resolution 2006 R-010 County regulations regarding Pre-HUD Homes, manufactured home parks shall meet the following standards:

Commented [CH38]: Stewardship areas required with a clustered subdivision.

Commented [CH39]: Stated at intro of this Chapter

Commented [CH40]: Reso 2006-R-010 is the inspection checklist for Pre-HUD units. Provided as an addendum to the operative Ordinance... Plan to revise pre-HUD ordinance allowing to keep in place if existing, but cannot relocate/transport a pre-HUD except to dump or out of the County.
Added standards from Mobile Home Park Resolution (Reso 97-R-035)

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a. General Standards.

- 1) Design of Manufactured Home Parks shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil and trees.
- 2) Land subject to hazardous conditions such as landslides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, periodic flooding, and polluted or non-potable water supply shall not be developed into manufactured home parks until the hazards have been eliminated or will be eliminated as part of the proposed development plans.

b. Access.

- 1) A park with more than 20 sites must have two means/points of access.
- 2) Streets within the park shall be meet County Road Standards for a Local Street.
- 3) Dead-end streets shall not be permitted.
- 4) Cul-de-sacs shall not serve more than 10 sites.
- 5) Driveways for individual park sites shall not be permitted to have direct access to highways or County roads.

c. Easements. Easements shall follow front, side, or rear lines of individual park sites whenever practical and designed to provide efficient installation of utilities.

d. Design Standards.

- 1) Perimeter Setbacks and Building Spacing. The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between manufactured homes shall be 10 ft.
- 2) Site Size. Minimum site size is 4,500 square feet.
- 3) Density. Maximum density is six (6) units per acre. This density can be increased to eight (8) units per acre where the park is connected to sewer.
- 4) Skirting. All units shall be skirted within 90 days after placement on a site. The material shall be fire resistant and generally blend with the appearance of the unit.
- 5) Utilities and Services. Each site shall be provided with: domestic water, wastewater disposal, electricity. Telephone and gas may be provided. All of these utilities must be properly installed, permits as required by State or local regulations, with systems of adequate capacity to meet anticipated demands. All utilities, except major transmission lines, shall be underground.

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6) Fire Protection. Each Park shall be equipped with fire hydrants in good working order and of such size, type, number, and location as to satisfy applicable regulations of the appropriate fire agency.

4)7) Parking. Each site shall be provided with a minimum of two (2) off-street parking spaces.

e. Common Buildings. Manufactured home parks may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

b.f. State Registration. Manufactured home parks with more than five (5) units is required to be registered with the State.

3. **Multifamily.** In addition to all other applicable standards of this Code, multifamily uses shall meet the following standards:

- 1) *Perimeter Setbacks and Building Spacing.* The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between multifamily buildings shall be 20 ft.
- 2) *Common Buildings.* Multifamily uses may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

i. Section 2. Accessory Residential Uses

1. A. Purpose and Application of Section

1. Purpose. The purpose of this Section is to set standards for the development of accessory residential uses, including additional residences on a lot, and seasonal farmworker housing, in order to ensure that adequate services are provided, and that proper permits or taps for water and wastewater disposal are secured.

2. Application of Section.

3. Chapter 3, Section 2(B), Additional Residences or Communal Living, provides standards for the development of more than one single family dwelling unit on a lot.

4. Chapter 3, Section 2(C), Seasonal Farmworker Housing, provides standards for the development of housing for seasonal use by farmworkers.

4. Additional Residences or Communal Living

a. *Generally.*

1) The purpose of this Section is to set standards for the development of additional residences on a lot to ensure that adequate services are provided.

Commented [CH41]: Separate (differentiate) farmworker housing from additional units (Ag vs non-Ag).

Commented [CH42]: Relocated from Chapter 3, Section 2 (A&B), and edited

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and that proper permits or taps for water and wastewater disposal are secured.

~~1)2)~~ In general, one residence is allowed per lot. Additional residences may be constructed, placed, or installed on a lot in accordance with the provisions and limitations of this Section, subject to Site Plan Review. The number of additional residences is ~~not specifically limited~~ limited to the allowed density (Section B of this Chapter, "Rural Residential Uses"). ~~but~~ A Adequate water, sewer, power, fire protection, and access must be provided for each unit in accordance with the standards of this Code and other applicable law.

Commented [CH43]: Clarify need to go through a process.

Commented [CH44]: Density establishes limitations on the number of units. If do not establish density, then need to determine if this is really only limited to available water...even if taking out irrigated lands.

~~2)3)~~ A subject property that is developed with additional residences may also include accessory buildings that are not designed such they could be used as dwelling units (e.g., common buildings, storage buildings, barns, stables, etc.).

~~4)~~ This allows for additional residences that are intended for permanent occupancy; ~~however, such additional residences may also be used for seasonal housing, including seasonal farmworker housing~~. Additional residences that are used as temporary residential uses may be subject to ~~Chapter 2, Section 3(B), Temporary Uses of Recreational Vehicle, or other similar structure as Dwelling Unit~~ other standards depending on how they are used (e.g., lodging, seasonal farmworker housing, etc.).

~~3)5)~~ Design according to the standards referenced in this subsection (2) below shall not create a vested right to future subdivision. Future subdivision will be evaluated based on the standards in place on the date of application for the subdivision

Commented [CH45]: General not site design.

b. Site Design and Utilities.

~~1)~~ Although subdivision is not required, a ~~Additional residences dwelling units~~ shall be accessed, located, spaced, oriented, and served by utilities such that the subject property could be subdivided into a standard subdivision or a ~~cluster~~ ed subdivision in the future. ~~See Chapter 4, Site Design and Environmental Stewardship, for applicable design standards.~~

Commented [CH46]: Encourage clustering to minimize footprint.

~~1)2)~~ Additional units shall be designed and located in areas that will not impact irrigated Ag lands.

~~2)3)~~ Construction or installation of net new dwelling units requires compliance with Chapter 5, *Public Facilities, Infrastructure, and Services*, as applicable.

~~3)4)~~ Design according to the standards referenced in this subsection (2) shall not create a vested right to future subdivision. Future subdivision will

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~~be evaluated based on the standards in place on the date of application for the subdivision.~~ Access for additional units shall be consolidated with the primary access and designed in accordance with applicable County Road Standards. Multiple access for multiple units is discouraged unless the Director determines it would be impractical due to unique site conditions.

Commented [CH47]: Consistent with encouraging clustered footprint versus sprawling out.

- c. *Traffic Impacts.* ~~At the point if a subject property is proposed to create additional dwelling units totaling include more than three net new dwelling units on the property,~~ a traffic impact study is required. See Chapter 5, Section 1, *Traffic Impacts*.

Commented [CH48]: Clarify intent to trigger a traffic study when more than 3 units. As worded could be read that able to add two at a time without trigger the need for a traffic study.

C. Agricultural Support & Rural Industry Uses

Agricultural Support & Rural Industry Uses

(Reserved)

2.1. C. Seasonal

1. Farmworker Housing

Commented [CH49]: Relocated from Chapter 3, Section 2.C, and edited

- a. ~~The purpose of this Section is to set standards for the development of farmworker housing, in order to ensure that adequate services are provided, and that proper permits or taps for water and wastewater disposal are secured.~~
- b. ~~Farmworker Housing consists of permanent structures/units occupied year-round.~~
- c. ~~Seasonal Farmworker Housing consists of temporary or permanent structures and meets the criteria for seasonal land use in Chapter 2, Section 2.D of this Code. Units shall be vacated at least 90 consecutive days during a 12-month period.~~
- ~~a.d. Seasonal Farmworker housing may be constructed, placed, or installed on a lot, provided that all of the following criteria are met:~~

- 1) ~~The parcel is zoned A35 or A20.~~
 - a) ~~Density of 1 unit/10 acres with a minimum 20 contiguous acres is an Allowed Use.~~
 - b) ~~Density greater than subsection "a" above is a Limited Use.~~
- 2) ~~The principal use of the lot (or a larger area of commonly-owned property within which the lot is integrated) is agriculture or intensive agriculture, and~~
- 2) ~~The format for the seasonal farmworker housing is allowed in the zoning district in which the farm is located (e.g., manufactured home park, multiple-family, or campground); and~~
- 3) ~~Water can be hauled for use of seasonal farmworker housing for a period not to exceed 90 days, and Units occupied for more than 90 days in a~~

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~~calendar year shall meet the criteria for an adequate water supply (see Chapter 5, Section 3).~~

~~3)4) The housing shall be designed and located to minimize loss of irrigated lands.~~

~~4)5) The seasonal farmworker housing shall meet all of the applicable standards of this Code, based on its format of and the zoning district in which the subject property is located.~~

~~1) Additional residences or communal living (see Chapter 3, Section 2 (B), Additional Residences or Communal Living);~~

~~Manufactured Home Parks (see Chapter 2, Sections 5 (B), Use Specific Standards above);~~

~~2) Multiple family housing (see Chapter 2, Section 5 (B), Use Specific Standards);~~

~~3) Campgrounds (see Chapter 2, Section 5 (B) Use Specific Standards); provided that farmworker housing that will be occupied for periods of 30 days or more is in the format of a recreational vehicle, tiny home, cabin, yurt or mobile home. Tents shall not be occupied as farmworker housing for periods longer than 30 days.~~

D. Community Uses

~~Community Uses~~

Community land uses shall not be located in wildfire hazard areas.

E. Commercial Uses

~~Commercial Uses~~

1. **Sexually-Oriented Businesses.** Sexually-oriented businesses are regulated under the authority of C.R.S. 30-15-401(I). In addition to all other applicable standards of this Code, sexually-oriented business uses shall meet the following standards:
 - 1) No sexually-oriented business shall be located within 1,000 ft. of a place of assembly, day care, dwelling unit, or school, measured from property line to property line. Setbacks related to Sexually-oriented businesses shall not be modified using the Conditional Use review process described in Chapter ~~82~~, Section ~~26~~, ~~Conditional Use Approval Standards~~.
 - 2) Access to the use shall be configured to allow for verification of age of customers before entry.

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- 3) The interior of the use shall be configured so that there is no visibility of interior activities from outside of the building through windows or doors.

F. Rural Recreation & Hospitality

Rural Recreation & Hospitality

1. **Indoor Shooting Range.** ~~In addition to all other applicable standards of this Code, indoor shooting range uses shall be:~~
 - 1) Located within a free-standing building;
 - 2) Sound-proofed so that the shooting activities are not audible at property lines;
 - 3) Designed with closed loop range ventilation systems with HEPA filtration, dedicated to the range and not connected to the general HVAC system for the building;
 - 4) Designed to prevent dangers from ricochets, backslash, and lead dust;
 - 5) Designed such that no door or entrance is located forward of the rearmost firing point, unless secured from the inside; and
 - 6) Designed such that a red light is installed above all doors giving direct access to the range itself (not the building), with such lights turned on whenever the range is in use.
2. **Outdoor Shooting Range.** ~~In addition to all other applicable standards of this Code, outdoor shooting ranges shall be:~~
 - 1) Either designed to mitigate noise impacts on residential uses, community uses, and/or livestock operations within 1,000 ft. to a level that does not exceed 70 dBA, or located not less than:
 - a) 1,000 ft. from residential buildings;
 - b) One mile from the boundaries of a municipality; and
 - c) Two miles from an airport or airstrip;
 - 2) Designed to prevent projectiles from leaving the subject property; (a scaled site plan, elevations, and construction plans must show how all projectiles will be contained within the site);
 - 3) Secured to prevent entry into surface danger zone areas;
 - 4) Designed according to the most recent version of "Range Design Criteria," promulgated by the U.S. Department of Energy, Office of Health, Safety, and Security; and
 - 5) Designed to provide an impervious layer in the area where bullets land to intercept lead leachate and direct it to a monitored pond.

Commented [CH50]: Stated at beginning of this Section (repetitive)

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3. **Racetrack.** ~~In addition to all other applicable standards of this Code, racetrack uses shall meet the following standards:~~

- 1) The minimum area of the subject property shall be 60 acres;
- 2) The use shall be located not less than:
 - a) One-half mile from buildings used for residential purposes, places of assembly, daycares and schools; and
 - b) One mile from the boundaries of a municipality;
- 3) All parts of the track and stands shall be set back:
 - a) 100 ft. from all property lines; and
 - b) 300 ft. from arterial streets;
- 4) If the use is open to the public, access shall be provided by an arterial road or a local commercial or industrial road.

4. **Campground.** ~~In addition to all other applicable standards of this Code, Campgrounds shall be developed according to the standards for a "Developed" campground as defined in 6 CCR 1010-9, 2.10.d (Colorado Code of Regulations).~~

Note that 6 CCR 1010-9 is available online at

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=410&fileName=6%20CCR%201010-9>

5. **Outdoor Theater.** ~~In addition to all other applicable standards of this Code, outdoor theater uses shall meet the following standards:~~

- 1) Access shall be taken from a collector or arterial road, or a local commercial or industrial road.
- 2) No outdoor theater shall be located within 100 ft. of property lines.
- 3) Amphitheater stages and drive-in screens shall face away from the nearest residential or livestock uses, and the applicant shall provide evidence that the use will comply with the standards of Chapter 4, Section 7(C), *Noise*.

G. Utilities, Communications, Mining, Energy, Transportation, and Disposal Uses

1. Utilities, Communications, Mining, Energy, Transportation, and Disposal

~~**Uses Renewable Energy Facilities.** The purpose and intent of this Section is to define the standards for placement, design, monitoring, modification of commercial-scale renewable energy (solar, wind, geothermal) while protecting public health, safety, and general welfare in the County in accordance with applicable State and Federal regulations.~~

~~a. **Applicability.** The requirements of this Section shall apply to all proposed new and proposed modifications to commercial-scale renewable energy facilities, including~~

Commented [CH51]: Repeat of intro.

Commented [CH52]: Links can change/break so should not include in text.

Commented [CH53]: Regulations used examples from: Weld County, Adams County, Morgan County, Pueblo County. Reviewed by COSSA (irrigated Ag).

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battery storage. These standards shall not apply to personal scale facilities, which are permitted in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district.

b. *Exceptions.* These regulations shall not govern any renewable energy facilities on State or Federal lands.

c. *Design and Operation.* In addition to LUC Chapter 4 *Site Design and Environmental Stewardship*, commercial-scale renewable energy facilities shall be designed using the criteria set forth in this Section.

1) *Protection of Agricultural Lands.* The energy facility shall not have a significant adverse impact on agricultural lands or agricultural operations. Commercial scale projects should avoid impact to soils identified by Natural Resources Conservation Service (NRCS) as prime farmland or farmland of statewide importance. Where a project is located on agricultural designated lands, the project shall include an Agricultural Management Plan that adequately demonstrates continuation of Agricultural operations given the site conditions.

2) *Irrigated Lands.* Renewable Energy Facilities should be designed to minimize loss of irrigated ground, and shall maintain irrigation to surrounding properties (including access rights or way and easements).

3) *Location.*

a) *Ground-mounted solar panels shall be located at least 70 feet from property liens and 200 feet from any residential structure. Inverter/transformer equipment, including any substation on site, shall be located at least 500 feet from any residential structure.*

b) *Wind Energy Facilities (WEF):*

i. *Shall be located at least 1.1 times the system height from above-ground public electric or communication lines, public roads/highways and railroads, property lines (unless appropriate easements secured from adjacent property owners or other acceptable mitigation is approved by the Board).*

ii. *Shall be located at least 2 times the system height from inhabited buildings including: residence, school, hospital, church or public library.*

iii. *System height is the combined height of the tower, wind turbine and any blade extended at its highest point, measured from [finish] ground level.*

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- c) Structures associated with renewable energy facilities, to the greatest extent possible, shall not be located in a regulatory floodplain. Structures located in a regulatory floodplain shall require an approved flood plain permit.
 - d) Commercial-scale renewable energy facilities shall be located more than one (1) mile from:
 - i. Any defined municipal boundary; or
 - ii. Existing or permitted facilities.
 - 4) Power lines. Proposed transmission facilities must be identified and included as part of the Renewable Energy Facility project. Unless geologic condition or other technical engineering considerations prevent underground installation, electrical collection system wiring and powerlines for the renewable energy facility shall be installed underground except where the electrical collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network. Overhead transmission lines are permissible from the project substation to the point of electrical interconnection.
- d. Standards and Limitations.
 - 1) In addition to Renewable Energy Facility standards set forth in this Section, applications for a renewable energy facility shall meet the Conditional Use Approval Standards in LUC Chapter 8, Section 2.
 - 2) A Renewable Energy Facility must be designed to minimize site disturbances. Reestablishment of all disturbed areas, including the construction access, shall maintain the historic drainage patterns and permeable ground cover and must be done to minimize environmental impacts. Temporary and permanent erosion control measures shall be used as necessary to minimize erosion of the site.
- e. Application Requirements. Applications for approval of renewable facilities shall be processed according to the applicable procedures set forth in Chapter 8 of this Code. Following a pre-application meeting, specific application requirements are promulgated by the Director, including but not limited to leading practice standards such as:
 - 1) Concept/Development Plan. An illustrative summary of the project, including information provided in other documents described below, such as: property boundary lines and dimensions, location and arrangement of screening, buffer zones, fencing location and design (designed with wildlife movement in mind), tree preservation, existing/proposed structures and renewable energy facilities (including battery energy storage facilities).

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driveways and entrances, existing road edges and rights-of-way abutting the project site, irrigation systems, existing/proposed easements (utility, irrigation, conservation, etc.), wildlife corridors, floodplain, and existing/proposed electrical and transmission lines.

- 2) Project Narrative. Provide the owner and operator of the proposed facility, as well as the applicant or representative. Identify the intended utility company to interconnect to the facility. Legal description of the subject parcel(s), location and description of physical characteristics and current land use, zoning, and soil type including NRCS classification for agricultural lands. Project size in acres and percentage of site coverage. A description of the project and each phase of development, including the approximate number of structures (e.g., panels, inverters, etc.), power output (in MW), plus infrastructure and interconnection requirements for each phase. Identify baseline conditions, assess potential effects that the project may have on County services and/or capital facilities from the proposed construction and operation. Describe site maintenance during and after construction, and recognize the ability for County to inspect the site upon notification. Also, address any direct or indirect impacts to forests, parks, wildlife management areas, conservation easements, or recreational areas.
- 3) Decommissioning Plan. A Renewable Energy Facility application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse, recycling, or dismantlement of the facility at the owner's expense. The Plan shall include a cost estimate (current dollars) for the decommissioning of the facility and restoration of the site prepared by a professional engineer or contractor who has expertise in removal of such facilities. All non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three (3) feet below grade shall be removed. Property shall be restored to a condition reasonably similar to pre-development conditions. Disturbed areas shall be reestablished to historic drainage patterns and ground cover consisting of native and pollinator plant species.
- 4) Traffic Study. The intent is to assess the traffic created by the proposed use and demand for parking during and after construction. Illustrate (map) desired primary and secondary routes on County roads and State Highways. Describe characteristics of loaded vehicles including maximum load capacity and frequency leading to a summary of what impacts construction will have upon transportation patterns in the area intended to be served or affected by the project. Include assessment of road segments/intersections for the number of average daily vehicle trips and accident rates as determined by the County Engineer. Include a construction traffic mitigation plan for public roads, including truck haul routes, off site park-and-ride, and traffic controls (e.g., signage, lane closure, flagging, etc.).

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- 5) Construction Schedule. Estimated timeline for each step of the project.
- 6) Irrigation Systems (where applicable). Provide information relative to ditch alignment and easements to maintain appropriate drainage access. The nature and location of the facility must not interfere with any irrigation systems on or adjacent to the Renewable Energy Facility site.
- 7) Environmental Impacts Assessment. Including, but not limited to the following:
 - a) **Biological Report.** The intent is to assess potential for sensitive species to be present on the property or impacted by the proposed project, and address wildlife concerns identified by Colorado Parks and Wildlife. If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. Include delimitation of wetlands, riparian areas, rivers, streams and floodplain as well as an avian and bat conservation plan. Illustrate the presence/location of wildlife corridors and concentration areas on, and within the immediate proximity to, the subject property.
 - b) **Cultural Resource Survey.** Class III cultural resource survey is required of the project site to identify eligible or supporting resources potentially impacted by the proposed project. Specifically include any known historic or cultural resources within three (3) miles of the project boundary.
 - c) **Hazardous Materials and Waste Management Plan.** Spill Prevention and Emergency Response Plan identifying potential sources at-risk of causing a spill and planned response if a spill does occur. Wildfire Control Plan including assessment and identification of at-risk communities/facilities with methods (strategies and tactics) for reducing potential impacts and protecting sensitive facilities. Phase I Environmental Site Assessment to research the current and historical uses of a property to assess if current or historical property uses have impacted the soil or groundwater beneath the property and could pose a threat to the environment and/or human health.
 - d) **Noise Abatement Plan.** Evaluate potential noise levels of equipment associated with the facility when measured at the property line. Include current state noise standards and how the proposed project meets those standards, with or without mitigation.
 - e) **Visual Analysis.** A visual analysis describing and demonstrating project siting and proposed mitigation, if necessary, to minimize impact on the visual character of the surrounding area (including light and glare). Elevations depicting the general style, size, color

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and construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood. Location of exterior lights indicating area of illumination and foot-candles. Include accurate, to scale, photographic simulations showing the relationship of the proposed facility and its associated amenities and development to its surroundings. Include perspective from public viewing areas such as public rights-of-way, as deemed necessary by the County.

8) Geotechnical and Hydrological Investigation Report, including but not limited to:

- a) **Geotechnical.** Conduct a preliminary evaluation, prepared by a professional engineer licensed in Colorado, of subsurface and site conditions with recommendations for site preparation, slope stability, foundation design, grading criteria, and management of drainage.
- b) **Drainage.** A Preliminary Drainage Report, prepared by a Professional Engineer registered in the State of Colorado, is required. Assess peak flows and flood risk based on a 100-year recurrence interval storm event to model infiltration, runoff and flow depth and velocities in the study area.
- c) **Vegetation and Noxious Weed Control.** Outline the strategy of the project to manage vegetation within the project area. This includes native vegetation, proposed landscaping plan, and abatement of noxious weeds.
- d) **Dust/Erosion Control.** Describe existing and proposed ground cover, including species and coverage area. Provide a plan showing existing and proposed grading for the site. Said plan shall be accompanied by a written description of practices that will be utilized to mitigate dust, erosion and run-off during and after construction. Soils shall be planted and maintained in perennial vegetation to prevent erosion (water and wind), manage runoff and build soil.
- e) **Stormwater Management.** Evaluate anticipated work associated with the project in accordance with good engineering, hydrologic, and pollution control practices to comply with requirements of the Colorado Discharge Permit System (CDPS) Water Quality Control Division (WQCD), and the General Permit for Stormwater Discharges Associated with Construction Activity.

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f) **Hydrology.** Include a surface and groundwater monitoring and reporting plan that addresses solar panel washing plan with listed chemicals used in wash water.

9) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

f. **Securities.** Delta County shall have the right to draw upon the financial Security to pay for services noted below in the event the holder has not commenced activities within ninety (90) days of the Board of County Commissioners order or resolution directing said activity. Should any information represented in the agreement change, the owner must contact the County in writing and provide the updated information.

1) **Road Bond** to address damage to public roads during construction. The County Engineer will inspect the applicable roads prior to and after construction to assess applicable improvements. Any temporary construction access shall be removed prior to release of the Road Bond.

2) **Landscape/Vegetation Bond.** Security to maintain the landscape and manage noxious weeds for a minimum of ten (10) years or until the landscaping has been established, whichever is longer. This may also include Security to manage the land for agricultural operations, if applicable.

3) **Site Reclamation and Restoration Bond.** Prior to construction, the developer is required to submit an irrevocable standby letter of credit, bond, or alternative form of Security in an amount sufficient to fund the estimated decommissioning/reclamation costs. Decommissioning/reclamation cost estimates, which shall be updated every five (5) years from the establishment and submittal of the Security, shall include costs associated with the dismantlement, recycling, and safe disposal of facility components and site reclamation activities.

g. **Annual Reports.**

1) **Annual Report.** The facility operator shall submit the Annual Report to the County by December 31st of each year to include: summary of irrigation and agricultural practices, surface and groundwater testing and analysis, reporting of any chemical or waste spills, County, State or Federal citations or reports, avian and bird fatalities, traffic increases or decreases, County road repairs, number of solar panels replaced and recycling report.

2) **Annual Operating Plan (AOP).** The facility operator shall submit the AOP to the County by January 15th of each year to include: planned construction or repair activities, updated hazardous waste, emergency response, stormwater pollution prevention, irrigation and grazing, and noxious weed and dust control plans. AOP should include updated contact information for

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local and corporate responsible persons. Every five (5) years, the AOP shall include updated decommissioning/reclamation cost estimates that shall be used to true-up the decommissioning bond if needed.

- 3) Delta County and its agents reserve the right to conduct site inspections for monitoring compliance with applicable project permits and conditions.
- 4) If ownership changes, the Use Permit shall remain in effect, provided the successor owner/operator assumes, in writing, all of the obligations of the Use Permit, Decommissioning Plan and outstanding Securities.

h. Abandonment and Removal.

- 1) **Abandonment.** Any renewable energy facility that is not operated for any continuous period of one hundred eighty (180) days shall be considered abandoned. The County, in its sole discretion, may require any abandoned facility to be removed within ninety (90) days of receipt of notice from the County notifying the owner of the alleged abandonment.
- 2) **Decommissioning.** Decommissioning shall commence within twelve (12) months after power production has permanently ceased and be completed within twelve (12) months from the start date of the decommissioning/reclamation work
- 3) **Restoration.** Upon removal of a facility as provided in this Code, the site shall be restored and revegetated with seed for native vegetation that is appropriate for the site based off of the recommendation of the Natural resources Conservation Service (NRCS) and in consultation with Colorado Parks and Wildlife.

1.2.

2. **Airport.** In addition to all other applicable standards of this Code, airport uses shall meet the following standards:

~~Airports.~~ Airports shall provide a master plan for its physical expansion, and a forecast of aviation activity. The master plan and activity forecast may be approved as a component of the site plan and land use approval if it is demonstrated that:

- 1) The subject property is not less than 200 acres in area. Contiguous parcels may be aggregated to achieve the minimum acreage;
- 2) The proposal is designed to minimize the impact on residential uses by:
 - a) Minimizing the number of existing residences that are brought within the 55 DNL noise zone; and

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- b) Ensuring that residential uses do not come within the 65 DNL noise zone unless they are subject to an aviation easement that allows inclusion in this zone.
- 3) The proposal does not interfere with the implementation of the County's Master Plan or three-mile area plan of any municipality within the County; and
- 4) The plan for the airport shall demonstrate compliance with all other applicable federal regulations.

3. **Airstrips.** ~~In addition to all other applicable standards of this Code, airstrip uses shall meet the following standards:~~

- 1) Airstrips shall be located on a ~~site tract~~ that is at least 80 acres in area;
- 2) Applications for approval of an airstrip shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and
- 3) Airstrips shall be spaced not less than 1,500 ft., measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:
 - a) Lots that are developed with dwelling units;
 - b) Municipal boundaries;
 - c) Schools, public parks, and child care centers; and
 - d) Places of assembly.

4. ~~Helicopter Landing Pad~~ **(Other)**

- ~~a. Land areas for other aircraft (not otherwise listed) shall be located on a site that is at least 40 acres in area;~~
- ~~b. Applications for approval of a landing pad shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and~~
- ~~c. Landing areas shall be spaced not less than 300 ft., measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:~~

- ~~1) Lots that are developed with dwelling units;~~
- ~~2) Municipal boundaries;~~
- ~~3) Schools, public parks, and child care centers; and~~

Commented [CH54]: Add context similar to other uses (including ultra-lights)

Commented [CH55]: Ultralight landing area shall have a runway safety area: Length 300 feet, Width 150 feet
Helipad 100'x100'

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4) Places of assembly.

~~5.—~~

~~5. **Salvage Yard.** In addition to all other applicable standards of this Code, s~~Salvage yard uses shall be located at least 300 ft. away from State highways.

~~6.—~~

~~7.6. **Minerals Extraction/Quarry.** In addition to all other applicable standards of this Code, minerals extraction/quarry uses shall meet the following standards:~~

- a. The reclamation plan (however titled), if required for an applicable state permit (*see, e.g.,* Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations; and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;
- b. If the boundaries of the mining operation are within 2,000 ft. of a residence or livestock operation, a Noise Control Plan is required (*see* Chapter 4, Section 7(C), *Noise*);
- c. A Dust Control Plan is required (*see* Chapter 4, Section 7(F), *Dust Control*); and
- d. An Operational Hazard Mitigation and Risk Management Plan is required (*see* Chapter 4, Section 7(J), *Operational Hazard Mitigation and Risk Management*).

~~7. **Waste Transfer Station.** In addition to all other applicable standards of this Code, waste transfer station uses shall meet the following standards:~~

~~8.—~~

- a. *State Review.* The County shall request a technical review of the site and facility documents and operation plan from CDPHE pursuant to 6 CCR 1007-2 § 7.1 for all applications for approval of a waste transfer station.
- b. *Setbacks.* No building or area in which the unloading, storage, processing, or transfer of wastes or recyclable materials takes place shall be located within 300 ft. of:
 - 1) The lot line on which the waste transfer station is located; or
 - 2) Any area of special flood hazard;
 - 3) Any wetland;
 - 4) Any water well;

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- 5) Any natural or artificial pond (including a detention or retention pond or facility); natural stream, water way, or water course; or
- 6) An artificial drainage way or irrigation canal.
- c. *Minimum Area of Parcel Proposed for Development.* The minimum area of a parcel proposed for development as a waste transfer station is 40 acres.
- d. *Design Requirements.*
 - 1) Generally. The site shall be designed such that all activities associated with waste transfer, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities are conducted in a fully enclosed building. No outdoor storage of materials or equipment is allowed. Appropriate enclosed office/and plumbed employee restroom facilities must be provided on-site.
 - 2) Mitigation of Hazards to Aircraft Waste transfer stations handling putrescible wastes within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in hazards (including bird strike hazards) to aircraft
- e. *On-Site Parking and Roads.*
 - 1) Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
 - 2) The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for drop-off of household wastes), and the use of emergency access easements and fire lanes.
 - 3) The road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
 - 4) On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
 - 5) The road system shall be designed to eliminate the need for the backing of truck traffic.
- f. *Capacity.* Solid wastes shall not remain at the transfer station for more than 72 hours. Any solid waste that is to be kept overnight at the station shall be stored in an impervious, enclosed structure.
- g. *Unloading and Loading Areas.*

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- 1) The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.
 - 2) The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and equipped with adequate drainage structures and systems.
 - 3) Processing, tipping, sorting, storage, and compaction areas shall be located within an enclosed building.
 - 4) Provisions shall be made for weighing or measuring all solid wastes transferred to the facility.
 - 5) Sufficient internal storage areas shall be provided for incoming solid wastes.
- h. *Fencing and Aesthetics.* Waste transfer station design shall include an opaque six-foot perimeter fence or wall, interrupted only by necessary access and maintenance gates.
- i. *Waste Liquid Collection and Disposal.*
- 1) All waste transfer stations shall be designed and constructed to include a collection and disposal system that will prevent liquids contained in waste materials and generated by normal operations, such as wash-out and cleaning of equipment, trucks, and floors (“waste liquids”), from contaminating the soil, surface water, or groundwater.
 - 2) Tipping, loading, and unloading areas shall be constructed of impervious material and equipped with drains connected to either:
 - a) A sanitary sewer system if approved by the utility provider; or
 - b) A corrosion-resistant holding tank; or
 - c) An alternative system, if the applicant demonstrates that the alternate design will prevent waste liquids from contaminating the soil, surface water, and groundwater.
- j. *Operational Requirements.*
- 1) Waste Acceptance. Only household wastes, commercial and industrial wastes and recyclable materials shall be accepted at any waste transfer station. Unless otherwise collected in accordance with a plan approved by the County, no wastes classified as hazardous in accordance with C.R.S. § 25-15-101 *et seq.* shall be knowingly accepted. No asbestos wastes shall be knowingly accepted at a waste transfer station facility. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.

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- k. *Overnight Truck Parking.* Trucks or vehicles shall not be parked or stored overnight at the waste transfer station unless screened from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash collection and transfer at the waste transfer station. Junked or inoperable vehicles shall not be stored at a waste transfer station.
- l. *Emergency Access Required.* Emergency access easements and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.
- m. *Supervision of Facility.* The waste transfer station or recycling center shall have an on-site operator on duty at all times that the facility is open. Such operator shall be licensed and/or certified if licensure or certification is required by state law. Suitable security measures and signage shall be provided to limit unauthorized persons from access to the facility when the station is closed.
- n. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
- o. *Other Operational Requirements and Prohibitions.*
 - 1) No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.
 - 2) Open burning is prohibited.
 - 3) Scavenging is prohibited.

9.8. Landfill. ~~In addition to all other applicable standards of this Code, landfill uses shall meet the following standards:~~

- a. *Certificate of Designation Required.* No landfill shall be developed or operated without a certificate of designation, as required by Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.
- b. *State Review.*
 - 1) Applications for approval of a disposal facility shall be reviewed by the Colorado Department of Public Health and Environment (“CDPHE”)

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pursuant to Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.

- 2) The report and recommendation of CDPHE are required prior to the processing of the application by the County.
 - 3) In addition to the application of the standards of this Code, no disposal site shall be approved without a recommendation of approval by CDPHE.
 - 4) Technical conditions of approval made by CDPHE shall be incorporated into the certificate of designation.
- c. *General Evaluation Criteria.* No certificate of designation shall be issued unless the facility has a recommendation of approval by the CDPHE and the Board of County Commissioners finds that:
- 1) There is no exclusive site for solid waste disposal (pursuant to 30-20-107, Colorado Revised Statutes) with capacity to serve the County's needs;
 - 2) There is a demonstrated need for the facility to serve the residents and businesses of Delta County;
 - 3) The facility will not frustrate the implementation of the Master Plan, as amended from time to time;
 - 4) The facility complies with all technical rules promulgated by CDPHE;
 - 5) The financial assurances provided pursuant to C.R.S. § 30-20-104.5 are adequate to serve their purposes; and
 - 6) The landfill would create a net public benefit to the region and the residents and property owners of Delta County, taking into account:
 - a) The effect that the solid wastes disposal site and facility will have on the surrounding property, considering the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;
 - b) The convenience and accessibility of the landfill site and facility to potential users;
 - c) The ability of the applicant to comply with the health standards and operating procedures provided for in Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes, and such rules and regulations as may be promulgated by the CDPHE; and
 - d) Recommendations by health departments that have jurisdiction within five miles of the facility.

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- d. *Minimum Area of Subject Property.* The minimum area of the subject property is 100 acres.
- e. *Minimum Setbacks.* All disposal operations must be set back at least 200 ft. from all property lines.
- f. *Spacing.*
 - 1) The landfill shall be spaced not less than 1,000 ft., measured from the main entrance to the landfill perimeter to:
 - a) Residential dwelling units;
 - b) Parcel boundaries of schools, public parks, and child care centers; and
 - c) Places of assembly.
 - d) Landfills that are located within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in bird strike hazards to aircraft.
- g. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
- h. *Limitations on Location.* Disposal facilities are not allowed within:
 - 1) Areas of special flood hazard;
 - 2) Areas of wildfire hazard;
 - 3) Areas of geologic hazard; or
 - 4) Critical wildlife habitat.
- i. *Buffering and Screening.* Landfills shall be buffered from surrounding property and public rights-of-way using berms, fences, topography, or landscaping, in order to minimize the visual impacts of the landfill operations from ground-level vantage points.

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~~10.9. **Hazardous Waste Landfill.** In addition to all other applicable standards of this Code, hazardous waste landfill uses shall meet the following standards:~~

- a. *Certificate of Designation Required.* No hazardous waste landfill shall be developed or operated without a certificate of designation, as required by Title 25, Article 15, Part 2, Hazardous Waste Disposal Sites, and Colorado Revised Statutes.
- b. *Evaluation Criteria.* No certificate of designation shall be issued unless the Board of County Commissioners finds all of the following:
 - 1) CDPHE has made a recommendation of approval pursuant to 25-15-202(4)(c) (III), Colorado Revised Statutes.
 - 2) The hazardous waste landfill would not pose a significant threat to the safety of the public, taking into consideration:
 - a) The density of population of the areas neighboring the subject property;
 - b) The density of population of the areas adjacent to the delivery roads within a 50-mile radius of the subject property; and
 - c) The risk of accidents during the transportation of waste to or at the site.
- c. The applicant has demonstrated a need for the facility by Colorado hazardous waste generators.
- d. The applicant has documented its financial ability to operate the proposed site.
- e. The applicant, taking into account its prior performance record, if any, in the treatment, storage, or disposal of hazardous waste, has documented sufficient reliability, expertise, and competency to operate and manage the proposed facility.
- f. The site conforms to the officially adopted land use plans, policies, regulations, and resolutions of the County.
- g. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
- h. *Limitations on Location.* Disposal facilities are not allowed within:

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- 1) Areas of special flood hazard;
- 2) Areas of geologic hazard; or
- 3) Critical wildlife habitat.

H. Wireless Telecommunications Facilities

1. **Purpose.** The purpose and intent of this Section is to accommodate the communication needs of residents, businesses, and institutions, while protecting public health, safety, and general welfare in the County in accordance with applicable State and Federal regulations.

a. **Applicability.** The requirements of this Section shall apply to all proposed new and proposed modifications to wireless communication facilities, including base stations, alternative communication facilities, towers, and small wireless facilities. The County may withhold approval of any facility that does not meet one or more of the requirements or criteria set out in this Section or other provisions referenced herein.

Any wireless communication facilities approved on or before the effective date of this Resolution shall comply with all applicable sections herein with respect to modification of such facilities.

b. **Exceptions.** These regulations shall not govern any tower or wireless communication facilities owned or operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas.

These regulations shall not govern any tower or wireless communication facilities on State or Federal lands.

2. Location.

a. **Applicability; Prohibitions.** All wireless communication facilities are subject to the requirements of this Section. Wireless communications facilities are allowable on public and private property within the County as provided in this Section.

Wireless communication facilities are not allowed on residential lots that are one acre or less in area.

b. **Need.** No wireless communication facility shall be approved unless the decision-maker finds that the need for the facility in its proposed location has been demonstrated as provided in this Section.

The applicant shall demonstrate how the proposed site fits into the overall communication network for the County. As applicable, the applicant shall also demonstrate:

- 1) That, to the extent that the applicant seeks approval to address gaps in coverage or capacity, there are no materially preferable alternatives (in

Commented [CH56]: From Reso. Integrate pertinent regulations into LUC rather than separate Code (Reso). Delete overlap with LUC (e.g., pre-application, application, etc.)

Commented [CH57]: Communications Act of 1934
Telecommunication Act of 1996
Middle Class Tax Relief and Job Creation Act of 2012 (a.k.a. Spectrum Act), Section 6409

Commented [CH58]: ADDED SENTENCE (for clarity, expressly stated);
Generally, local government can apply regulations where it is not otherwise addressed by State/Federal regulations provided there is no conflict with their regulations.
IF County wants to address new facilities on other public lands, should include as part of Section 7.c Approval Process by Application Type

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terms of compliance with this Section) to remedy gaps in the applicant's network; or

- 2) That, to the extent that the applicant provides services under a license granted by a governmental authority, a failure to approve the application will result in the applicant's inability to provide the minimum coverage or capacity it is required to provide pursuant to its license and any applicable law.

c. *Siting Considerations.* The siting considerations set out in this Section shall be used to optimize the location of a wireless communication facility outside of public rights-of-way within the areas in which need is demonstrated pursuant to Subsection 2.b. *Need*, and within the setbacks set out in Subsection 2.d. *Setbacks*, except as provided therein.

- 1) Hazards. All wireless communication facilities must be physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties, buildings, or improvements.
- 2) Topography and Vegetation. The location and development of wireless communication facilities shall, to the maximum extent possible, preserve the existing character of the topography and vegetation.
- 3) Silhouettes and Views. If the proposed wireless communications facility is a tower (of any type) and it is proposed to be located within one-quarter (1/4) mile from the right-of-way of a Scenic Byway for proposed towers within these areas, the applicant shall submit a graphic illustration or photo-simulation depicting the impact of the proposed tower on the views from designated Scenic Byways or Significant View Corridors, as applicable, to include:
 - a) An illustration or rendering of ground elevations, existing buildings and structures, and vegetative cover before development (the "pre-development condition"), in plan-view and elevation view, taking into account the elevation of the road and the distance to the scenic resource;
 - b) An illustration or rendering of the proposed tower (the "post-development condition") in plan-view and in elevation view from the same vantage points that were used to illustrate the pre-development condition; and
 - c) Annotations that label and describe the concealment elements that are proposed in order to mitigate the impact of the proposed development on the scenic resource.

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The County may require mitigation measures such as alternative setbacks (see subsection (d), *Setbacks*, below), increased setbacks, design, landscaping, and/or additional or alternative concealment elements.

d. *Setbacks*. All wireless communication facilities that are located outside of the public right-of-way shall be set back the greater of:

1) For towers, the lesser of:

- a) The setback that is applicable to buildings in the zoning district in which the subject property is located; or
- b) The height of the wireless communications facilities, as measured from the natural grade at the base of the facilities to the highest point of the facilities.

2) For building or structure-mounted facilities, the lesser of:

- a) The setback that is applicable to the building or structure in the zoning district in which the subject property is located; or
- b) The actual setback of the building or structure, if it is legally nonconforming to this Code.

e. *Alternative Setbacks*. In the alternative to the requirements of subsection (d), *Setbacks* (above), modified setbacks may be applied if the physical characteristics of the proposed site and the wireless communication facilities are such that:

- 1) Mitigation of visual impacts pursuant to Subsection 3.f, *Concealment Elements*, will be materially improved through the application of alternative setbacks; or
- 2) The siting considerations set out in Subsection 2.c, *Siting Considerations*, would all be better served through the application of alternative setbacks.

No portion of the facility, including any antenna array, may extend beyond the property line unless the encroachment is allowed by easement or license agreement.

f. *Public Rights-of-Way*.

1) Generally. Wireless Communications Facilities within public rights-of-way must be installed upon, in descending order of priority:

- a) Existing poles;
- b) Replacement poles; or
- c) New poles.

2) Wiring.

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- a) Any necessary wiring or cabling shall be located within the pole or, if such location is not technically feasible, within fully enclosed sheathing attached to the pole.
 - b) Sheathing shall be the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling, and may not extend out from the pole more than three inches.
 - 3) Volume. The volume of wireless communications facilities on any pole, other than sheathing enclosing wiring or cabling described in subsection (b), above, shall not exceed three cubic feet for antenna enclosures and 17 cubic feet for any primary equipment enclosures, and the facilities shall add no more than 10 feet of additional height to the pole.
 - 4) Ground-Level Equipment. Any ground-level equipment shall be buried or screened by landscaping that is approved by the County along with the permit issued under this Resolution. The owner of the facilities shall provide for the maintenance of such landscaping.
 - 5) Pole Spacing. If an applicant proposes to add to the total number of poles located in the area impacted by its application, the County may administratively approve the application only if the proposed new pole(s) is located a minimum distance of:
 - a) 300 feet from any existing pole; or
 - b) 300 feet from any other new pole proposed in the application.
 - 6) Alternatives. Alternatives to the standards set out in this Section may be approved by public hearing permit if:
 - a) The alternative standards are necessary to address a service need that cannot be addressed in any manner that is in strict accordance with this Section; and
 - b) The siting considerations set out in Subsections 2.c, *Siting Considerations*, would not be materially compromised by the application of the alternative standard.
3. **Design and Operation.** All wireless communication facilities shall be designed using the criteria set forth in this Section.
- a. Co-Location
 - 1) General Requirement. The shared use of existing towers or other freestanding communication facilities upon which wireless communication facilities can be mounted shall be preferred to the construction of new facilities. Wireless communication facilities shall be co-located with other

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wireless communication facilities or public utilities whenever technically feasible.

2) Tower Design. Towers shall be designed to allow for co-location to the maximum extent possible. To ensure the structural integrity of towers and any other freestanding communications facilities upon which other wireless communication facilities may be mounted, the owner of such structure shall ensure that it is of sufficient structural strength to accommodate reasonable co-location.

3) Co-Location Agreement as Condition of Approval. As a condition of approval of any tower or other freestanding communication facility, the applicant shall be required to agree to allow co-location on such facilities in the future if:

a) The facility is capable of supporting co-location;

b) The entity wishing to co-locate is willing to pay fair market value for the space; and

c) The County requests such co-location.

b. Height. Towers shall not exceed 100 feet in height.

c. Footprint. The total footprint of a wireless communication facility's accessory equipment shall not exceed 350 square feet per operator.

d. Hazards. All wireless communication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties or improvements.

e. Towers and Other Freestanding Facilities.

1) Any tower or freestanding communication facility shall be designed and maintained to withstand without failure maximum forces expected from wind, tornadoes, blizzards, and other natural occurrences, when the facility is fully loaded with antennas, transmitters, other wireless communication facilities and concealment elements.

2) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.

3) All wireless communication facilities shall comply with the power line clearance standards set forth by the Colorado Public Utilities Commission ("PUC").

f. Concealment Elements. All wireless communication facilities and support equipment shall be concealed according to a concealment element plan. The concealment element plan shall address the requirements of this Section and may

Commented [CH59]: Maximum height is 100 feet period, or unless they get a variance?
What if adding onto an existing pole within exception...?

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also address the siting considerations of Subsection 2.c, *Siting Considerations*, to the extent that such siting considerations are part of the strategy for concealing the facilities and equipment.

- 1) All Facilities. Wireless communication facilities (all types) shall be concealed using colors, textures, surfaces, scale, materials, geometries, or screening materials that blend into or compliment their context and the background upon which they will be viewed (e.g., tree canopy, the sky, a building wall, etc.). Applications for approval of wireless communications facilities shall specify and illustrate the concealment elements that are applied.
- 2) Facilities Integrated into Buildings or Structures. Where possible, wireless communication facilities shall be concealed by integration into architectural features or accessory structures that are consistent with the architectural scale and character of the area.
- 3) Facilities Attached to Buildings.
 - a) Wall-mounted facilities are allowed only if roof-mounted facilities that are hidden behind screening materials cannot be installed due to physical or operational infeasibility.
 - b) Wall-mounted facilities shall be mounted as flush to the building wall as possible.
- 4) Towers and Freestanding Facilities. Towers and other freestanding facilities shall be screened with vegetation, buildings or structures, or topographical features. The facilities shall be integrated to the maximum extent possible, through its location and design, into the natural setting and the structural environment of the area.
- 5) Accessory Equipment. Accessory equipment shall be located to minimize visual impact on adjacent properties and public rights-of-way in one or more of the following ways:
 - a) Enclosure within a building;
 - b) Installation in a flush-to-grade underground equipment vault;
 - c) Depressed or located behind earth berms or structures to minimize its profile; or
 - d) Located behind screen walls, privacy fences, buildings or structures, dense landscaping, or a combination thereof.

g. Operations. The wireless communication facilities shall be designed, maintained and operated as required by applicable FCC licenses and regulations.

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- 1) Federal Emissions Regulations. All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency ("RF") emissions.
4. Visual Mitigation. Wireless communication facilities shall be screened or utilize concealment elements to mitigate visual impacts on adjacent properties and public rights-of-way to the maximum reasonable extent.
5. Lighting. Wireless communication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration ("FAA") or other governmental authority with jurisdiction to mandate lighting.
 - a. Mandated Lighting. If lighting is required by a governmental authority, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners, livestock operations, or scenic views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences and livestock operations.
6. Application Requirements. Applications for approval of wireless communications facilities shall be processed according to the applicable procedures set forth in Chapter 8 of this Code. Specific application requirements are promulgated by the Director, and may be set out in Subsection 10, Application Requirements, or otherwise made available to the public.
7. Approval Process by Application Type. The approval process varies depending upon the types of wireless communication facility that is the subject of the application and the location that is proposed for the siting of the wireless communication facility. The Director shall determine the type of application based on the information presented.
 - a. New Facilities on Private Property. Unless another subsection more specifically applies, approval of a new wireless communications facility on private property requires a Conditional Use permit.
 - b. New Facilities on County Property. Unless another subsection more specifically applies, approval of a new wireless communications facility on County property requires:
 - 1) A Limited Use Permit, public notice required;
 - 2) A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property; and
 - 3) A right-of-way use permit is required if the proposed location is within the County right-of-way.
 - c. Eligible Facilities Requests for Existing Towers and Base Stations (Wherever Located).

Commented [CH60]: Changed from "public hearing permit".
Two types of permits with public notices in LUC: LUP and CUP.
CUP only type with a public hearing.

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1) The Director shall process an application as an eligible facilities request, as defined in Chapter 14 and provided in subsection (ii), below, if the Director finds that the proposal:

- a) Consists of collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment;
- b) Does not result in a modification that substantially changes the physical dimensions of an eligible support structure, defined as follows:

- i. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

- Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

- ii. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

- iii. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of

Commented [CH61]: Section 6409(a) of the Spectrum Act (2012); eligible facilities request means any request for modification of an existing wireless tower or base station that involves:

- Collocations of new transmission equipment;
- Removal of transmission equipment; or
- Replacement of transmission equipment

FCC later defined "Substantial change":

- Applies to collocation, removal, or modification.
- Does not apply to collocation on a structure that is not a wireless tower or base station
- Does not apply if action substantially changes the physical dimensions of a tower or base station.

Commented [CH62]: Brought from wireless definitions since includes regulatory standards.

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ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;

iv. It entails any excavation or deployment outside the current site;

v. It would defeat the concealment elements of the eligible support structure; or

vi. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds enumerated in this section.

c) Does not violate any generally applicable law, regulation or other rule reasonably related to public health and safety;

d) Complies with the original application design elements or conditions of approval, including but not limited to colors, textures, surfaces, scale, character and siting, or any approved amendments thereto, subject to the thresholds established in this section; and

e) Complies with concealment elements of the eligible support structure necessary to qualify as an alternative communication facility.

2) Approval of eligible facilities requests requires:

a) Development ~~Application~~/Site Plan Review; and

b) If located within public property, including but not limited to rights-of-way:

i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and

ii. A right-of-way use permit is required if the proposed location is within the County right-of-way.

d. Building-Mounted Wireless Communications Facilities (Wherever Located).

1) The Director shall process applications for building-mounted wireless communications facilities.

2) Approval of such facilities requires:

Commented [CH63]: Change from Administrative WCF Permit (not creating a separate permit type)
ALLOWED/PERMITTED USE

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a) Development ~~Application~~/Site Plan Review; and

b) If located within public property, a lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation.

Commented [CH64]: Change from Administrative WCF Permit (not creating a separate permit type)

e. Small Wireless Facilities (Wherever Located).

1) The Director shall process applications for small wireless facilities, except those that do not qualify for administrative review due to the pole spacing requirements of Section 2.f, Public Rights-of-Way.

2) Approval of such facilities requires:

a) Development ~~Application~~/Site Plan Review (except as provided in subsection e(1) above); and

Commented [CH65]: Change from Administrative WCF Permit (not creating a separate permit type)

b) If located within public property, including but not limited to rights-of-way:

i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and

ii. A right-of-way use permit is required if the proposed location is within the County right-of-way.

f. Temporary Wireless Communications Facilities. Placement and use of temporary mobile wireless communication facilities or television broadcast equipment in conjunction with federal, state or local emergencies, natural disasters or major special events may be approved administratively by the Director, subject to reasonable time limitations approved by same based on the nature, scope and duration of the emergency, disaster, or special event.

8. **Shot Clocks.** Shot clocks are FCC-mandated time frames for review of applications under this Resolution. If the County does not act on the application on or before the expiration of the shot clock period, the County is presumed not to have acted within a “reasonable period of time” under FCC regulations. The shot clock commences upon the filing of an application. The County shall not refuse to accept an application during business hours on a business day.

a. Shot Clocks by Application Type. The following are the presumptively reasonable periods of time (“shot clocks”) for action on ~~applications~~ seeking authorization for deployments in the categories set forth below:

Commented [CH66]: Must approve an application under 6409 within 60 days of a complete application. Timeline tolled is application deemed incomplete.

1) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

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- 2) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
- 3) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.
- 4) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

2) *Batching.*

- 1) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (a)(1) or (a)(3) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
- 2) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (a)(1) and deployments that fall within paragraph (a)(3) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

3) *Tolling of Shot Clock.* Unless a written agreement between the applicant and the County provides otherwise, the tolling period for an application (if any) is as set forth below.

- 1) Initial Application to Deploy Small Wireless Facilities. If the Director issues a Notice of Deficiency to the applicant on or before the 10th day after submission of an initial application to deploy small wireless facilities, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the Director to render the application complete.
- 2) All Other Initial Applications. For all other applications not included within subsection (1), above, the tolling period shall be the number of days from:
 - a) The day after the date when the Director issues a Notice of Deficiency to the applicant until the date when the applicant submits all the documents and information identified by the Director to render the application complete;
 - b) But only if the Notice of Deficiency is delivered on or before the 30th day after the date when the application was submitted.
- 3) Supplemental Submissions Following a Notice of Deficiency. For supplemental submissions following a Notice of Deficiency, the tolling period shall be the number of days from:

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- a) The day after the date when the Director issues a second Notice of Deficiency based on the Director's original notice (or a subsequent Notice of Deficiency), until the date when the applicant submits all the documents and information identified by the Director to render the application complete;
 - b) But only if the second or subsequent Notice of Deficiency is delivered on or before the 10th day after the date when the applicant makes a supplemental submission.
- 4) Shot Clock Date. The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock identified pursuant to paragraph 8(a) of this Section; provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.
- 5) Shot Clock Period. Action shall be taken on applications under this Resolution within the shot clock period. The shot clock period is the shot clock date, plus the number of days that the shot clock is tolled (if any); provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.

9. Abandonment and Removal.

- a. Obsolescence. At the time of submission of the application for a wireless communication facility, the Applicant shall execute an agreement in a form acceptable to the County, to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower or freestanding communication facility used as a wireless communication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 180 days.
- b. Abandonment. Any wireless communication facility that is not operated for any continuous period of 180 days shall be considered abandoned. The County, in its sole discretion, may require any abandoned wireless communication facility to be removed within 90 days of receipt of notice from the County notifying the owner of alleged abandonment. If there are two or more users of a structure upon which wireless communication facilities are mounted, then this provision shall not become effective as to the structure until all users cease using the structure.
- c. Restoration. Upon removal of a facility as provided in this Division, the site shall be restored and revegetated in a manner that is consistent with the surrounding context.

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10. Application Requirements

a. General Requirements

- 1) Applications must contain an applicant's name, address, general contact telephone number and an emergency number where a representative of the applicant can be contacted 24 hours per day, seven days per week.
- 2) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

b. Consolidated Application for Small Cell Antenna Facilities

- 1) An applicant for small cell antenna facilities involving multiple individual small cell antenna facilities may submit a consolidated application to the County that covers all individual small cell antenna facilities.

c. Specific Requirements

- 1) All applications shall specify concealment elements as required by Section 3.f, *Concealment Elements*, and illustrate how such elements contribute to concealment of the facility.
- 2) At the time of application for approval of a wireless communication facility the owner or operator shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.

d. Eligible Facilities Requests

- 1) The County shall prepare, and from time-to-time revise, and make publicly available an application form which shall be limited to the information necessary for the County to consider whether an application is an eligible facilities request.

e. Co-Location Information (Towers and Freestanding Communication Facilities)

- 1) The application for any wireless communication facility involving a new tower or other freestanding communication facility shall include evidence that reasonable efforts have been made to co-locate within or upon an existing wireless communication facility within a reasonable distance of the proposed site, regardless of municipal boundaries.
- 2) The applicant for a new tower or freestanding communications facility must demonstrate that the proposed wireless communication facility cannot be accommodated on existing facilities due to one or more of the following reasons:

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- a) The planned equipment would exceed the structural capacity of existing and approved wireless telecommunication facilities, considering existing and planned use for those facilities
- b) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented.
- c) Existing or approved wireless communication facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
- d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
- e) The landowner or owner of the existing wireless communication facility refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- f) No existing wireless communication facilities upon which the applicant's facilities can be mounted are located within the geographic area required to meet the applicant's engineering requirements.
- g) Existing wireless communication facilities are not of sufficient height to meet the applicant's engineering requirements.
- h) Existing wireless communication facilities upon which the applicant's facilities can be mounted do not have sufficient structural strength to support the applicant's proposed antennas and related equipment.

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CHAPTER 3

Section 1. Lot Dimensions by Zoning District

A. Lot Dimensions

1. **Generally.** The minimum lot area, lot width, and lot frontage by zoning district is set out in Table 3.a, *Lot Dimensions*.

TABLE 3.a LOT DIMENSIONS						
Standard	Zoning District					
	A35	A20	A5	RI/RC	RES-2.5	UGARES-1.0
Lot Size	35 ac.	20 ac.	5 ac.	2.0 ac.	2.5 ac	7,500 sf; ⁺ 1.0 ac
Lot Width	600 ft.	450 ft.	200 ft.	150 ft.	150 ft.	75 ft. ⁺
Lot Frontage	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	30 ft.
TABLE NOTE: ⁺ Applies to residential uses. Nonresidential uses shall meet the standards of the RC zoning district.						

2. **Existing Lots.** The standards of this apply to lots created after the effective date of this Code. Lots that were lawfully created prior to the effective date shall be considered “conforming” to the requirements of this Code regardless of their zoning designation or dimensions.
3. **Variations to Lot Size.** The ~~County Director shall have authority to Administratively may~~ approve the creation of ~~one additional new lots that does~~ not conform to the requirements of Table 3.a, *Lot Dimensions*, provided that:
 - a. The subdivision conforms to all other requirements of this Code, ~~including but not limited to: adequate water supply, access, setbacks of existing structures, and capacity for wastewater treatment systems (as applicable);~~
 - b. ~~The subject parcel is zoned A-35 or A-20;~~
 - c. ~~One parcel in the subdivision shall retain the minimum acreage required for that zoning designation;~~
 - d. ~~The new lots requesting a variance to lot size have at least the minimum dimensions shall conform to set out in~~ the standards for the UGA RES-2.5 zoning district;

Commented [CH67]: Allow exception for larger Ag parcels, but not an avenue around zoning (planned vs unplanned). Aka “Legacy Subdivision”

Commented [CH68]: This list reflects the key aspects to be considered in all cases

Commented [CH69]: Limit this exception to larger Ag parcels. Not variation to the minimum lot size in A5, RI/C, RES-2.5 or RES-1. Potential to rezone if warranted.

Commented [CH70]: Example (criteria c + d): In A-35, one of the parcels is at least 35 acres. The other is at least 2.5 acres.

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~~c.e.~~ The size and configuration of the new lot ~~minimizes~~ avoids, to the greatest extent feasible, disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat; ~~and~~

Commented [CH71]: Avoids sets a higher bar to meet.

~~d.f.~~ The final plat is annotated such that: ~~no further subdivision of either lot created by this subsection is allowed~~ "Parcels/Lots created by this subdivision shall not subdivide further for at least 20 years".

Commented [CH72]: Remove restriction in perpetuity, but limited frequency.

Said subdivision shall follow the process of a Minor Plat.

4. **Boundary Line Adjustment.** No variance is required to adjust property between existing legal lots/parcels where one or more lots/parcels do not meet the minimum size required, provided:

a. The adjustment does not create non-conforming setbacks for septic and/or structures; and

b. The parcels/lots were created through a subdivision.

4.5. **Cluster Subdivision.** Allows a subdivision with higher density and/or smaller lots designed to protect significant resources pursuant to Chapter 12, Section 4(C) of this Code.

B. Bulk Standards

1. **Generally.** All principal buildings, accessory buildings, and accessory structures shall meet the standards of this Section.

2. **Setbacks.** All buildings and structures shall be setback;

a. 25 ft. from all roadways (public and private), and including shared access where a road name has been assigned; and

b. 15 ft. from all other property boundaries; and

a.c. 25 ft. from waterways, including irrigation ditches.

When creating or changing a property line, the new line must comply with structural setbacks, or a variance is required pursuant to Chapter 8 of this Code.

~~2.3.~~ **Height.** There is no maximum height limitation. However, the height of buildings or structures may be limited as a result of the standards in Chapter 4, Section 5, *Agricultural, Natural, or Cultural Resources*; and Chapter 4, ~~S~~section 5, *Scenic Impacts*.

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CHAPTER 12

Section 1. Scope of Regulations

A. Purpose and Intent

1. Subdivision Regulations, incorporated within the Land Use Code, shall apply to all new divisions of land into one or more parcels ~~where any of the resulting parcels are less than 35 acres.~~
2. These regulations also apply to divisions of land 35 acres or larger where the statutory exemptions listed in C.R.S. 30-28-101(10)(b), (c) or (d) do not apply. ~~However, C.R.S. 30-28-110(3)(a) applies to subdivisions of all parcels of land, regardless of the size of the parcels within the subdivision (see Section C.4 below).~~

Commented [CH73]: Identify what is NOT subject to regs, and reference 35+ acre exemption statute where there is criteria.

Commented [CH74]: Resolution 2003-R-027 – Street Plans in “35-Acre Plus” Subdivisions

B. Exemptions

Where the Director determines that the parameters are met and that the creation of such divisions or interests are not for the purpose of evading the terms of this regulation, the following actions shall not be subject to the subdivision regulations of this Code:

1. Boundary Survey documenting existing conditions that results in no change from existing conditions.
2. Boundary Line Adjustment where all parcels involved exceed 35 acres, before and after the adjustment.
3. Boundary Agreements between adjacent landowners where a boundary line between parcels is unknown or uncertain. Boundary Agreements shall not create any new parcels and shall be accomplished according to Section 38-44-112 C.R.S. All parties involved in the agreement must enter into a written agreement that the new boundary line(s) shall become certain.

C. Standards and Limitations.

1. The Director shall sign the plat certifying that the creation of such divisions or interests are not for purpose of evading the terms of this regulation.
2. The surveyor shall certify that no new lots less than 35 acres are being created as a result of the Boundary Line Adjustment.
3. Minor Plats, Replats, Boundary Line Adjustments and Preliminary Plats shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.
4. Street Plans (35-Acre Plus Subdivisions). All plans of streets or highways for public use, and all plans, plats, plots and replots of land laid out in subdivision or building lots and the streets, highways, alleys or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be

Commented [CH75]: Amplify reference to 35-acre Road resolution.
Development application covers other types of permits, addressed in other sections.

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submitted to the Board of County Commissioners, for review and subsequent approval, conditional approval, or disapproval pursuant to C.R.S. 30-28-110(3)(a). This applies to subdivisions of all parcels of land, regardless of size of the parcels within the subdivision.

5.

~~Other Approvals and Permits May Be Required. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:~~

~~a. State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;~~

~~b. 35-Acre Road Resolution (Appendix)~~

~~—Adopted building and safety codes;~~

~~—Resolutions that require permits for activities on public land or within public right-of-way; or~~

~~—Business licensing resolutions;~~

~~—35-Acre Road Resolution~~

Section 32. Minor Plats, Replats, & ~~Administrative Review~~ Boundary Line Adjustments

Commented [CH76]: From Chapter 8

A. Administrative Review Established

1. Generally. The Director has authority to approve Minor Plats (~~for creation of two 2-lot subdivision~~), Replats, or Boundary Line Adjustments ~~approvals are issued by the Director~~ upon a finding of compliance with the applicable requirements of this Code. ~~No public hearing is required.~~

2. All parties must acknowledge their agreement to permanently adjust/create boundary lines(s) by their signature on the final plat. All signatures must be notarized.

~~1. Other Approvals and Permits May Be Required. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:~~

~~a. State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;~~

~~b. Adopted building and safety codes;~~

~~c. Resolutions that require permits for activities on public land or within public right-of-way; or~~

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~~d.a. Business licensing resolutions.~~

~~e.a. 35-Acre Road Resolution~~

3. Standards and Limitations.

a. Minor Plats, Replats, or Boundary Line Adjustments shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.

b. Minor Plats, Replats, or Boundary Line Adjustments shall demonstrate compliance with the applicable County Road and Bridge Standards.

1) Review of Minor Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.

2) Review of Boundary Line Adjustments shall include all applicable easements. There shall be no requirement to dedicate rights-of-way or construct offsite and onsite improvements for a Boundary Line Adjustment.

c. The Director shall verify that no violations of this Code are being created.

B. Administrative Review Process

1. **Administrative Recommendation, Decision, or Referral.** All applications for Administrative Review shall be processed in accordance with Chapter 7 - Standardized Application Review Process. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2 (D), Recommended Revisions (or, after finding that no revisions will be required):

a. Applications for Minor Plats, Replats, and Boundary Line Adjustments require completion of a Development Application that includes:

1) Express written consent from all Parties with ownership interest in the subject properties; and

2) A checklist to verify compliance with applicable regulations, including this Code; and

3) A plat from the applicant's surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels.

- b. ~~If the application is for an administrative approval or permit, then t~~The Director shall verify public notice has been given, if required (see Chapter 7, Section 4, *Public Notice*), and either:

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- 1) Approve, approve with conditions, or deny the application, as appropriate, and promptly provide written notice, including the reasons for the decision, to the applicant; or
- ~~1)2)~~ Refer the Minor Plat or Boundary Line Adjustment to the Board of Adjustment for consideration of the whole project where a variance is required; or
- ~~2)3)~~ Refer the application-Minor Plat or Replat to the Planning Commission for review and recommendation and Board of County Commissioners for decision according to the applicable standards of this Code, upon a determination by the Director, in his or her sole discretion, that the development, as proposed justifies the referral because it where:
 - a) May have material impacts on neighboring properties or public resources that are unusual in kind or degree due to the unusual context of the subject property; Dedication of Right-of-Way is required with the Minor Plat; or
 - b) Involves material potential for reasonable disagreement regarding whether the proposed development complies with the standards of this Code, or whether particular standards of this Code apply; Replat revises a Plat note that specifies Board action to remove the restriction.
- c. If referred, the application-Minor Plat or Replat is referred to the Board, it shall be processed as a preliminary-Final Plat in accordance with Chapter 8, Section 4(B), Preliminary Plat.
- d. If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next decision-making body that will consider it for further recommendation or approval.
2. The Director shall review the proposed Plat in accordance with the Standards and Limitations listed in subsection "A.3" above.
3. Following action by the decision-making body, the Director shall promptly provide written notice, including the reasons for the decision, to the applicant.
4. An aggrieved party may appeal the decision pursuant to Chapter 9 – Approvals, Denials and Appeals.
5. Recordation: The Director shall determine Minor plats may be recorded when all public improvements shown on the Minor Pplat are installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), Acceptance of Public Improvements.

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6. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.
7. Once approved by the County Surveyor, the Plat shall be recorded with the signatures of all property owners (notarized), their surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, and Planning Director. See Section 6 of this Chapter for applicable signature blocks.
8. New deeds describing all affected lots shall be recorded with the approved Minor Plat or Boundary Line Adjustment. New deeds shall be recorded with the Replat if there is any change to a parcel/lot. Any encumbrances applicable to the project or conditions (Access Agreements, etc.) shall be recorded with the Plat.

Section 3. Boundary Adjustments

Commented [CH77]: From Chapter 10, integrated into Admin Process

A. Boundary Adjustment:

1. ~~Generally.~~ Intended for adjustments or revisions of established, undisputed, existing boundary lines between parcels not previously subdivided, and where such adjustment does not result in the creation of an additional lot less than 35 acres.
2. ~~Standards and Limitations.~~
 - a. ~~For the transfer of ownership from one owner to another, all parties must acknowledge their agreement to permanently adjust a boundary lines(s) by their signature on the final plat for the boundary line adjustment. All signatures must be notarized.~~
 - b. ~~The surveyor shall certify that no new lots less than 35 acres are being created as a result of the boundary adjustment.~~

B. Process & Authority:

1. ~~Parties interested in a boundary adjustment shall:~~
 - a. ~~Complete an application provided by the Planning Department~~
 - b. ~~Provide a draft plat from the applicant's surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels.~~
2. ~~The Director shall review the proposed boundary adjustment to verify that no new lots are being created, and that no violations of this code are being created.~~
3. ~~The Director shall forward the draft plat to the County Surveyor who shall review the plat for accuracy.~~
4. ~~Once approved by the County Surveyor, the plat shall be recorded with the notarized signatures of all property owners, their surveyor, the mortgage company if applicable and the County Surveyor.~~
5. ~~New deeds describing all affected lots shall be recorded with the approved plat.~~

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ii. Section ~~43~~. Preliminary ~~and Final~~ Plats ~~Public Hearing~~ ~~Review~~

Commented [CH78]: From Chapter 8

A. Application Review Process

~~All applications for subdivision shall be processed in accordance with Chapter 7 Standardized Application Review Process.~~

- ~~1. Public Notice Requirement.~~ Public notice shall be made in accordance with Chapter 7, Section 4, *Public Notice*.
- ~~2. Public Hearing Requirements.~~ Except for minor final plats, all subdivision applications are reviewed and considered for approval, approval with conditions, or denial at public hearings.

~~B. Preliminary Plat~~

1. **Generally.** A Preliminary Plat may be approved upon a finding of compliance with applicable requirements of this Code following a public hearing with the applicable review bodies.
 - ~~a. Approvals are issued upon a finding of compliance with applicable requirements of this code following a public hearing with the applicable review body.~~
 - ~~b. Except in the case of a minor final plat, preliminary plat approval is required prior to the approval of a final plat. Preliminary plats shall demonstrate compliance with this Code, including Chapters 3, 4, 5 and 6.~~
2. **Standards and Limitations.**
 - a. Preliminary Plats shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.
 - b. Preliminary Plats shall demonstrate compliance with the applicable County Road and Bridge Standards.
 - 1) Review of Preliminary Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.
 - c. The Director shall verify that no violations of this Code are being created.

~~€B. Standard Subdivision Design~~ **Standards**

Commented [CH79]: Move to Ch 12

1. **Generally.** Development areas shall be divided into blocks, lots, tracts, and/or roads, as appropriate to the subdivision. The boundaries of development areas shall be clearly indicated on the preliminary and final plat.

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2. **Blocks.** Subdivision block lengths and widths shall be suitable for the uses or lot sizes that are contemplated, and shall be adequate for requirements pertaining to minimum lot areas and setbacks.

3. **Lots.**

a. *Dimensions and Geometry.*

- 1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.
- 2) Lot area shall meet the minimum requirements of the underlying zoning district. See Chapter 3, Section 1, *Lot Dimensions by Zoning District*.
- 3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the “flagpole” shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.

b. *Access.* If new residential lots are smaller than five acres, direct access to a county road is not allowed unless there is no feasible alternative access.

c. *Arrangement of Lots.*

- 1) No single lot shall be divided by a municipal or county boundary line.
- 2) No lot shall be divided by a road, alley, driveway, or other lot.
- 3) Corner lots shall accommodate the required building setback for both street frontages.

d. *Tracts.* Stewardship areas, private roads (if present), and commonly-owned recreation or open space areas that are located within the development area shall be located in tracts.

DC. Clustered Subdivision Design Standards

2. **Generally.** Clustered subdivisions can generally allow for a decrease in the size of ~~smaller~~ lots ~~configuration~~ and increase ~~may allow for more~~ in the number of lots from what is otherwise than the minimum allowed by zoning provided the County ~~determines that in exchange for layout of the clustering of lots on a portion of the subject property that are designed to protect~~ a significant agricultural, natural, scenic, or archaeological resources ~~on the subject property and, if possible, to avoid natural hazards (including flood hazards, wildfire hazards, and geologic hazards).~~

3. **Design Objectives.**

Commented [CH80]: Edits intended to tighten this up, setting a threshold for how much of the property is protected to grant this density bonus.

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a. Clustered subdivisions shall have a defined stewardship objective or combination of objectives based on either:

- 1) Protecting a significant amount of identified priority resources (e.g., forest stewardship, water quality preservation and enhancement, wildlife, etc.); or
- 2) Protecting a significant amount of irrigated agricultural lands with a mechanism that ensures irrigation will continue;
- 3) Providing a large common open space amenity.

b. Stewardship areas shall be interconnected within the subject property and to comparable resources on adjacent properties, where such integration is practical and tends to enhance the resource value of the stewardship areas.

4. Lots.

a. Dimensions and Geometry.

- 1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.
- 2) Lot area may meet the minimum requirements of the underlying zoning district, or may be altered in accordance with Chapter 3, Section 1, *Lot Dimensions by Zoning District*.
- 3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the "flagpole" shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.
- 4) Building envelopes shall not exceed one (1) acre or 25% of the Stewardship Area, whichever is less.

5. Design Approach. The approach to designing a clustered subdivision shall follow a four-step process that emphasizes the protection of irrigated agriculture, natural resources and meaningful open space:

a. Stewardship areas shall be identified and mapped (see Chapter 4, Section 5, *Agricultural, Natural, and Cultural Resources* and Chapter 4, Section 6, *Geologic and Wildfire Hazards*). Stewardship areas shall be designated as tracts.

b. All other areas outside of stewardship areas located within designated building envelopes are developable. ~~Development areas~~ Building envelopes shall be located to (in descending order of priority):

- 1) Avoid flood hazards and geologic hazards;
- 2) Avoid or reduce wildfire hazards;

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- 3) Avoid irrigated agricultural land;
- 4) Avoid impacts to critical wildlife habitat, calving areas, winter range, and wildlife corridors;
- 5) Minimize the impacts of clearing and grading on riparian areas, steep slopes, wetlands, and woodlands;
- 6) Minimize the visual impact of the cluster subdivision on the landscape;
- 7) Provide contiguity of common open space, stewardship areas, and, if present, agricultural lands (on-site and, where possible, off-site);
- 8) Preserve the open sky backdrop above ridgelines, as viewed from public roads within one-quarter mile of the subject property; and
- 9) Provide open space and scenic views for the principal buildings in the clustered subdivision.

c. The road system shall be designed to allow safe and efficient movement through the subdivision, and to adjacent property as appropriate. The road system shall avoid impacts to the stewardship areas to the maximum feasible extent.

d. Lot lines and lot areas shall be established to provide for the most appropriate conservation of the stewardship areas, and to optimize the design priorities set out in subsection (2), above.

6. **Long-Term Maintenance.** Financial surety or other mechanism for long-term maintenance of Stewardship Areas shall be provided.

E. Use of Stewardship Areas

1. **Generally.** Stewardship Areas may be used for ecological, agricultural, recreational, utility (underground and overhead lines), drainage (e.g., ponds, pipelines, swales, ditches, and related infrastructure), and access purposes (e.g., trails, maintenance access, or general access if no other feasible alternative exists) that are consistent with the stewardship objectives for the area.
2. **Annotations.** Limitations on the use of or development activities within stewardship areas shall be set forth using annotations on the Preliminary Plat, Final Plat, Site Plan, or by cross-reference to recorded covenants, deed restrictions, or conservation easements.

BF. Preliminary Plat

Preliminary Plat Review Process.

1. All applications for Preliminary Plats shall be processed in accordance with Chapter 7 Standardized Application Review Process.

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1.2. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):

a. ~~Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:~~

- ~~1) There is sufficient time to meet applicable public notice requirements; and~~
- ~~2) There is available room on the agenda.~~

b. ~~The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.~~

~~a.c.~~ The Director shall verify public notice has been given (*see* Chapter 7, Section 4, *Public Notice*)

~~b.d.~~ The Director shall ~~set the application on the agenda and~~ make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

~~c.~~ ~~The Director shall set the application on the agenda of the next body that will consider the application.~~

~~d.~~ ~~Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:~~

- ~~1) There is sufficient time to meet applicable public notice requirements; and~~
- ~~2) There is available room on the agenda.~~

~~e.~~ ~~The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.~~

~~f.~~ ~~The Director, or a designee, shall notify the applicant regarding the time and place of the public hearings.~~

~~g.e.~~ ~~When reviewed by the Planning Commission, The Planning Commission shall determine if the application complies with this Code. The Planning Commission shall and recommend approval, approval with conditions, or denial of the Preliminary Plat to the Board of County Commissioners.~~

~~f.~~ ~~When reviewed by the Board of County Commissioners, The Board of County Commissioners shall consider the Planning Commission recommendation to determine if the application complies with this Code and determine if the application complies with this Code. The Board of County Commissioners shall approve, approve with conditions, or deny the application Preliminary Plat.~~

Commented [CH81]: DELETE if PC decision makers

Commented [CH82]: DELETE if PC decision makers

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~~h.g. The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Board of County Commissioners.~~

Commented [CH83]: AMEND to PC if they are decision makers

Section 4. Final Plats

~~1. C. Final Plat~~

A. Generally.

- ~~1. Final Plats may be approved-accepted by the Board of County Commissioners upon a finding that they are Final Plat is substantially consistent with the approved Preliminary Plat and meet all applicable conditions requirements of this Code have been cleared by the appropriate agency.~~
- ~~2. The Director may approve a final, Minor Plat where no dedication is required. If the Minor Plat includes dedication of right-of -way, the Final Plat shall be considered by the Board of County Commissioners with the right-of-way dedication.~~
- ~~3. No final plat that includes or requires public improvements (on-site or off-site) shall be recorded, and no sketch plan or site plan that requires public improvements (on-site or off-site) or imposes conditions or obligations related to development approval shall be approved until the applicant has been submitted, and the Board of County Commissioners has approved one or a combination of the following:~~
 - ~~a. An Improvements Agreement in which the applicant agrees to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of the Board of County Commissioners, to make reasonable provision for the completion of said improvements in accordance with design and time specifications (see LUC Chapter 6, Section 5); or~~
 - ~~a.b. Other agreements or contracts, however titled, setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final plat documents which, in the judgment of the Board of County Commissioners, will make reasonable provision for completion of said improvements in accordance with design and time specifications; or obligation to satisfy such conditions of approval as may be imposed pursuant to this Code.~~

Commented [CH84]: From Chapter 6, Section 4.1

B. Timelines, Expiration, Extension

- ~~1. A Final Plat shall be submitted within twelve (12) months of Preliminary Plat approval, unless otherwise stated as part of the approval. Failure to submit the Final Plat within twelve (12) months shall result in the application being considered as withdrawn and shall require the applicant to begin the process anew.~~
- ~~2. If a proposed subdivision has multiple lots, a developer may request to complete the subdivision in two (2) or more phases. In order to complete a development in phases, a phasing plan showing which lots will be part of each phase is required to be submitted with~~

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the Preliminary Plat. All requirements for a Final Plat must be met in order to complete any phase of a development. All phases of a subdivision must be completed within three (3) years of completion of the first phase unless otherwise approved through a Subdivision Improvement Agreement.

3. Request for an extension must be received at least thirty (30) days prior to the expiration date and will require proof that progress is being made towards completion of the subdivision. The Director may grant one extension for up to one (1) year if, in the Director's opinion, substantial progress has been made and the developer has demonstrated the ability to complete the project.

B.C. Final Plat Review Process

1. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2 (D), *Recommended Revisions*, and that the application is consistent with the approved preliminary plat (or, after finding that no revisions will be required) Upon receiving a Final Plat:
 - a. The Director shall forward the Final Plat to commenting agencies to determine compliance with applicable standards and conditions.
 - 1) All public improvements shown on the Plat shall be installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements*.
 - 2) Evidence that access has been permitted and installed to all parcels/lots within the subdivision.
 - 3) Evidence that the water supply (tap, meter, well) has been installed to all parcels/lots within the subdivision, and applicable permits numbers are reflected on the Final Plat.
 - 4) Evidence the electrical supply has been installed to all parcels/lots within the subdivision.
 - b. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.
 - a. ~~The Director shall verify public notice has been given if required (see Chapter 7, Section 4, *Public Notice*)~~
 - b. ~~The Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for approval.~~
 - c. ~~The Director shall set the application on the agenda of the County Commissioners.~~

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~~d. — Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:~~

~~1) — There is sufficient time to meet applicable public notice requirements; and~~

~~2) — There is available room on the agenda.~~

~~e. — The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.~~

c. Once the Director determines that all conditions are cleared and the Final Plat is approved by the County Surveyor, the Director shall set the application on the agenda and make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for acceptance.

d. The Director shall verify public notice has been given if required (see Chapter 7, Section 4, Public Notice)

~~f. — The Director, or a designee, shall notify the applicant regarding the time and place of the public hearings.~~

e. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the ~~application~~ Final Plat complies with the approved Preliminary Plat and conditions of approval.

f. Final Plats shall be recorded with the signatures of all property owners (notarized), their surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, the Planning Director, and the Chair of the Board of County Commissioners. See Section 6 of this Chapter for applicable signature blocks.

g. New deeds describing all affected lots and dedications shall be recorded with the Final Plat along with any encumbrances applicable to the project or conditions (Covenants and Restrictions, Access Agreements, Irrigation Plans, etc.).

~~g. —~~

~~C. — **Recordation.** Final plats may be recorded when all public improvements shown on the plat are installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements*.~~

D. ~~D.~~ Plat Correction

1. **Generally.** In accordance with C.R.S. § 30-28-133, the Board of County Commissioners may approve a correction plat if:

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- a. The sole purpose of such correction plat is to correct one or more technical errors in an approved final plat; and
 - b. Such correction plat is consistent with the applicable approved Preliminary Plat.
2. **Limitations.** If the technical error or errors of an approved plat meet the description of any errors under C.R.S. § 38-51-111(2), a surveyor's affidavit of correction, as defined in C.R.S. § 38-51-102, shall be prepared in lieu of a correction plat.

Section 5. Format for Signature Blocks, Certifications and Plat Notes

A. Generally. Prior to the County recording a Plat, the following signature blocks, certifications and plat notes shall be included as required by the Director.

B. Dedication

A final plat presented for approval shall contain a statement concerning public use of all roadways, the suggested format is:

(I, We), printed name of owner(s), being the owner(s) of the land described as follows: [insert legal description of land being platted and/or subdivided and include area in acres to two decimal places] in Delta County, Colorado, under the name of [complete name of development in capital letters and the number assigned], have laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, alleys, roads and other public areas as shown hereon and those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof (printed name of the owner) has (have) subscribed (his, her, their) name(s) this _____ day of _____, AD _____.

By: _____
Owner(s)

C. Notarial

Signatures for all responsible property owners shall be notarized in the manner in which they appear on title or in legal documents for trusts or corporations. Documentation may be required to verify the correct manner in which the signatory must sign the plat.

State of Colorado

_____, ss.

Commented [CH85]: From prior Sub Regs, modified for current conditions

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County of Delta)

The foregoing instrument was acknowledged before me this _____ day of _____, AD _____, by (printed name of owner(s): if by natural persons here, insert name; if by person acting in a representative official capacity, insert capacity; if by officers of a corporation, then insert the title of said officers and the name of the corporation).

My Commission expires: _____

My address is _____

Witness my hand and official seal.

Notary Public

(Seal)

D. Mortgagees Approval

Where real property is revised, any lien holder(s) shall sign the plat to acknowledge their acceptance of any change from the conditions in which they issued a loan, for each parcel/lot affected.

In witness whereof Mortgagee has subscribed its name approving the content of this final plat.

Dated this _____ day of _____, AD 20____.

Mortgagee: [Insert Name of Mortgagee]

Authorized Signatory: [Insert Printed Name and Title]

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E. Delta County Surveyor's Approval

All plats required by the Code shall be reviewed by the County Surveyor to ensure proper form and content pursuant to State Statute. The County Surveyor also maintains record of survey monuments.

Approved for content and form only and not as to accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

County Surveyor _____ Date

F. Delta County Planning Department Approval

The Planning Director, or their designee, shall sign plats certifying that the plat meets applicable conditions and regulations or is exempt from review.

This plat of the above subdivision has been checked for compliance by _____ in accordance with Case No. PLN##-###.

Dated this _____ day of _____, AD 20__.

Planning Director

G. Certificate of Taxes Paid

Where real property is revised, the County Treasurer shall certify that taxes and assessments due have been paid.

I, Lisa J. Tafoya, Treasurer and Public Trustee of the County of Delta, State of Colorado, hereby certify that all current, supplemental and delinquent taxes and assessments upon all parcel(s) of real estate described on the subject Plat have been paid in full, and also an estimate of the amount of taxes that are a lien not yet due and payable as of _____.

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Fiscal Year: [Insert Applicable FY]

Parcel ID: [Insert All Applicable Parcel Number(s)]

Account No.: [Insert All Applicable Account Number(s)]

Dated this ____ day of ____, AD 20__.

Treasurer of Delta County, Colorado

H. Board of County Commissioners Acceptance

Where a Preliminary Plat has been approved, the Board of County Commissioners shall accept the Final Plat, certifying that all conditions have been met. Where a Minor Plat requires right-of-way dedication, the Board of County Commissioners shall accept the Final Plat along with the dedication.

The within plat of [insert project number and name of development in capital letters] is accepted by the Delta County Board of County Commissioners. The roads and other public areas are hereby accepted provided; however, that such acceptance shall not in any way be considered as an acceptance for maintenance purposes. Maintenance of, or snow removal from, the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or regulations in effect at that time.

Dated this ____ day of ____, AD 20__.

Chair, Delta County Board of County Commissioners

Attest:

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County Clerk of Delta County, Colorado

I. Standards **Notes**

Unless specifically excluded by the County, the following plat notes are required for all subdivisions:

1. All structures (including onsite wastewater treatment systems) in this subdivision shall meet applicable setbacks requirements (rights-of-way, property lines, ditches, waterways, etc.) in place at the time the development occurs.
2. All new development is subject to a Development Application. Land uses, including subdivisions, must comply with all applicable standards of the Delta County Land Use Code.
3. All lots/parcels are limited to one permitted access pursuant to County Road and Bridge Standards, unless otherwise approved by the County Engineer. There shall be no horseshoe driveways within this subdivision.
4. Unless approved otherwise, all lots within this subdivision have been approved for one single residential use only. Any further subdivision any change of use to other than single family residential or agricultural use requires the lot owner to process the request in accordance with applicable regulations of Delta County.
5. All utilities must be placed underground on all parcels (except transmission lines).
6. Outdoor lighting shall be hooded or shielded (cut-off) so that light is directed downward. Outdoor lighting shall not create glare onto adjacent property or public or private roads, nor shall it contribute to sky glow that dilutes the night sky.
7. Each lot owner shall be personally responsible to control undesirable, noxious weeds within the boundaries of that lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Coordinator concerning the control of such weeds.
8. NOTICE TO LOT PURCHASERS. As of the date of this final plat, adjacent property is used for agricultural purposes. The land within this plat may be impacted by agricultural activities, including but not limited to noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage, and manure;

Commented [CH86]: From Subdivision Regulations, modified for current conditions...unless otherwise noted.

Commented [CH87]: Revised to remove specific reference/numbers, which can change over time.

Commented [CH88]: New

Commented [CH89]: New (from Engineering)

Commented [CH90]: From LUC CH 4, Sect 7.H

Commented [CH91]: From LUC CH 4, Sect 7.G

Commented [CH92]: From LUC CH 4, Sect 5.B

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smoke from ditch burning; flies and mosquitoes; hunting and trapping activities; shooting sports; legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying.

9. Soils in this area may have severe limitations for septic tank systems and for certain types of construction. Septic tank systems may require engineered systems designed by a Professional Engineer registered in the State of Colorado.
10. Access to all shown or un-shown irrigation ditches for cleaning and maintenance purposes is permitted.
11. All development in Delta County is subject to the Delta County Right to Farm and Ranch Policy, adopted as Resolution 99-R-020 by the Board of County Commissioners on September 27, 1999 (as amended).
12. Colorado is an “open range” state. It is not the responsibility of a livestock owner to fence in livestock.

I. Special Notes

The County may require notes to be placed on the final plat as a condition of approval, including but not limited to the following:

1. Certain Covenants and Restrictions on the property in this Subdivision and other documents have been recorded in the office of the Delta County Clerk and Recorder, Reception No(s). [This note is required if there are any CC&Rs, including the applicable reception number(s)]
2. Shares of irrigation water assigned to the subject property shall be assigned as follows:
Lot 1 - ## shares (Applicable Company/ies)
Lot 2 - ## shares (Applicable Company/ies)
Shares of irrigation water conveyed to lots at the time of plat recording are subject to the Irrigation Plan (dated ###) recorded with this subdivision [Reception ###].
3. Emergency and service vehicle access easement(s) or roads, if any, shown hereon shall be constructed and maintained by the property owners and subsequent owners, heirs, successors and assigns. In the event that such construction and maintenance is not performed by said owner, Delta County shall have the right to enter said property and perform necessary work, the cost of which said owners, heirs, successors and assigns agree to pay upon billing.
4. Stormwater drainage easement(s), if any, shown hereon is (are) for the purpose of access, operation, maintenance, repair, and alteration of the stormwater quantity and quality management system/facilities included within the said easement(s). The

Commented [CH93]: From Subdivision Regulations, modified for current conditions...unless otherwise noted.

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operation, maintenance, and repair of such stormwater management system/facilities shall be the responsibility of the property owner and subsequent owners, heirs, successors and assigns.

In the event that the operation, maintenance, and repair of the stormwater management system/facilities is not performed by said owners, Delta County shall have the right to enter such easement(s) and perform the necessary work, the cost of which said owner, successor owner, heirs, successor and assigns agree to pay upon billing. Any claims and resulting judgments for damage to downstream properties caused by the lack of adequate maintenance being performed by the said property owners shall be borne solely by the said property owners. The property owner and successor owner, heirs, successor, and assigns hereby releases Delta County for any and all liability created by the lack of adequate maintenance of said stormwater management system/facilities. No buildings, fills, excavations, structures, fences or other alterations shall be constructed within a stormwater drainage easement(s) without the express written consent of the Board of County Commissioners of Delta County.

5. Construction Covenant. All Final Plats involving a Subdivision Improvements Agreement shall contain a plat note, within the dedicatory language, stating the following:

The undersigned owners, mortgagees and beneficiaries under deeds of trust, hereinafter known as dedicators, for themselves, their heirs, successors and assigns, covenant and agree with Delta County that no development, construction or improvements shall be permitted unless and until all required public improvements, as defined by the subdivision regulations of Delta County, are in place and accepted by Delta County or cash funds or other security satisfactory to the County for the improvements are provided to Delta County. [Reception No: ____]

Date _____

Owner(s) _____

6. The open space, parks, and drainage facilities within this subdivision are owned by the property owners or Homeowners Association and the operation and maintenance of those facilities are the responsibility of said owners or Homeowners Association.

Section 6. Vacations of Roads, Streets, Right-of-Way, Easements, or a Subdivision

A. Purpose

1. The Board of County Commissioners may vacate a portion or all of a recorded subdivision.

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2. The Board of County Commissioners may vacate a public road, street, right of way, alley, lane, parkway, avenue, trail or other public way, dedicated, conveyed by deed or recorded easement, or acquired by prescriptive use, collectively referred to as "Public Way", whether or not it has ever been used as such.

B. Submittals

1. Subdivision Vacations.

- a. Letter of Intent. An application for a vacation shall be made by submitting a Letter of Intent explaining the reasons for the request and the required fees to the County Planning Department.
- b. Petition. A Vacation of all or a portion of a Final Plat shall be submitted with a petition signed by not less than 50% of the owners of the lots as shown on the final plat and 100% of the owners of the lots to be vacated.

2. Public Road, Street, Rights-of-Way, or Easement Vacations.

- a. Letter of Intent. An application to vacate any portion of a right-of-way or easement shall include, but not be limited to:
- 1) Information stating whether any public moneys have been spent on any portion of the public way;
 - 2) Certification that no property will be left without proper access if the vacation is approved;
 - 3) Explanation of the purpose for the request to vacate, including how the propose vacation will not negatively impact public access; and
 - 4) Names and addresses of all the owners of property which abuts the public way; and
 - 5) Name mailing address and telephone number of the applicants.
- b. Vacation Plat. A plat (minimum 11" X 17") illustrating the following:
- 1) The public way which is proposed to be (all or partially) vacated, including all necessary dimensions including the total right-of-way.
 - 2) Cross-hatch or otherwise illustrate the portion of public way to be vacated.
 - 3) Title the map "A vacation of (name or description)" and include on, or attach to the map, a legal description of the portion of the public way to be vacated.

C. Notification

1. Subdivision Vacations.

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- a. The Planning Department shall, by certified mail, notify all owners of record of property within the subdivision. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

2. Road, Street, Rights-of-Way, or Easement Vacations.

- a. The Planning Department shall, by certified mail, notify all owners of record of property that abuts the portion of public way that is requested to be vacated. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

D. Procedure and Process

1. Subdivision Vacations.

- a. Upon determining that the petition for vacation of all or part of a Final Plat is complete, the Planning Department shall schedule and process the request as a Final Plat.

2. Road, Street, Rights-of-Way, or Easement Vacations.

- a. Upon determining that the petition for vacation of all or part of a public way is complete, the Planning Department shall schedule the request for a Public Hearing by the Board of County Commissioners.

E. Action by the Board of County Commissioners

After hearing testimony in the Public Hearing, the Board of County Commissioners shall take one of the following actions:

1. Approve the vacation with or without conditions.
2. Deny the vacation.
3. Table the request to a date certain.

F. Recording the Vacation

If the Board of County Commissioners approves the vacation, the Planning Department shall record the Resolution reflecting the Board of County Commissioners action in the office of the Delta County Clerk and Recorder. Where a public way is vacated, the Planning Department shall record the Vacation Plat in the office of the Delta County Clerk and Recorder, along with applicable deeds including legal descriptions of the: 1) land being transferred; and 2) the property being amended to accept the land.